

906
No. 2436

United States
Circuit Court of Appeals
For the Ninth Circuit.

TIMOTHY HEALY,
Appellant,
vs.

SAMUEL W. BACKUS, as Commissioner of Immigration at the Port of San Francisco, for the United States Government,
Appellee.

Transcript of Record.

Upon Appeal from the United States District Court
for the Northern District of California,
First Division.

Filed

JUL 10 1914

F. D. Monckton,
Clerk.

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INDEX TO THE PRINTED TRANSCRIPT OF RECORD.

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

	Page
Amended Return to Order to Show Cause in Case No. 15,479.....	39
Amended Return to Order to Show Cause in Case No. 15,480.....	75
Amended Stipulation Re Exhibits.....	116
Appeal, Petition and Notice of.....	107
Assignment of Errors.....	108
Certificate of Clerk U. S. District Court to Tran- script of Record on Appeal.....	117
Citation on Appeal—Copy.....	114
Citation on Appeal—Original.....	118
Notice of Appeal, Petition and.....	107
Opinion and Order Denying Application for a Writ of Habeas Corpus.....	100
Order Allowing Appeal.....	113
Order to Show Cause in Case No. 15,479.....	31
Order to Show Cause in Case No. 15,480.....	32
Petition and Notice of Appeal.....	107
Petition in Case No. 15,479 for a Writ of Habeas Corpus.....	4
Petition in Case No. 15,480 for a Writ of Habeas Corpus.....	18

Index.	Page
Praeclipe for Transcript of Record on Appeal...	3
Return to Order to Show Cause in Case No. 15,479.....	33
Return to Order to Show Cause in Case No. 15,480.....	68
Return to Order to Show Cause in Case No. 15,479, Amended.....	39
Return to Order to Show Cause in Case No. 15,480, Amended.....	75
Stipulation as to Printing of Transcript on Appeal.....	116
Stipulation for Omission of Exhibits from Printed Record.....	1
Stipulation Re Exhibits, Amended.....	116

*In the United States Circuit Court of Appeals for
the Ninth Circuit.*

TIMOTHY HEALY, for and on Behalf of BHA-
GAT SINGH et al. and SUNDAR or SANDU
SINGH et al.,

Appellant,

vs.

SAMUEL W. BACKUS, as Commissioner of Immi-
gration at the Port of San Francisco,

Appellee.

**Stipulation [for Omission of Exhibits from Printed
Record].**

It is hereby stipulated and agreed that the exhibits forming parts of the record in the court below and marked exhibits are to be omitted from the printed record on appeal in the above-entitled court, for the reason that those parts of the record below which are designated as exhibits are not necessary or material parts of the printed record in the above-entitled court, but may go up in their original form.

Omit pages from printed record as follows: Pages 13, 14, 15, 16, and all pages up to and including page 111; and omit from printed record pages 124 up to and including page 220.

JOHN W. PRESTON,
U. S. Attorney.

JOHN L. McNAB,
TIMOTHY HEALY,
Attorneys for Appellant.

[Endorsed]: 2436. In the United States Circuit Court of Appeals for the Ninth Circuit. Timothy

Healy for and on Behalf of Bhagat Singh et al., and Sundar or Sandu Singh et al., Appellants, vs. Samuel W. Backus, as Commissioner of Immigration at the Port of San Francisco, Appellee. Stipulation Re Exhibits. Filed Jun. 18, 1914. F. D. Monckton, Clerk.

In the District Court of the United States, in and for the Northern District of California, First Division.

No. 15,479.

In the Matter of the Application of TIMOTHY HEALY for a Writ of Habeas Corpus for and on Behalf of RHAGAT SINGH, SOWAN SINGH, ARJAN SINGH, PARTAB SINGH, ASA SINGH, SAPURAN SINGH, SOBA SINGH, SHAM SINGH, VIRYAN SINGH, SOHN SINGH, NARON SINGH and GULAM NABI.

A N D

No. 15,480.

In the Matter of the Application of TIMOTHY HEALY for a Writ of Habeas Corpus for and on Behalf of SUNDAR or SANDU SINGH, NARON SINGH, BISHAN or BISHEN SINGH, FOMAN SINGH, JAGAT or JAGOT SINGH, JAMIT or JAWAT SINGH, MADA RAM or MADO PAN, FERROZ KHAN, MAHBUB or MAHBUT ALLI, ABDOOLAH or ABDULLA KHAN.

(Style of Court, Titles and Numbers of Causes.)

Praeclipe [for Transcript of Record on Appeal].

To the Clerk of Said Court:

Sir: Please issue and make up record on appeal in the above-entitled causes to consist of petition for writ of habeas corpus, order to show cause, return to order to show cause, amended return to order to show cause, order denying writs of *habeas corpus* and opinion of the above-entitled court, petition and notice of appeal, assignment of errors, order allowing appeal, stipulation re exhibits and stipulation as to printing transcript on appeal.

Please take notice that the above-entitled court has made an order which is of record, which order is in conformity with the terms of a stipulation between the undersigned and Honorable J. W. Preston, United States Attorney for the Northern District of California, whereby it is agreed that the original exhibits in the above-entitled matter may be transmitted and made a part of the record on appeal, to the Circuit Court of Appeals for the Ninth Circuit.

JOHN L. McNAB,
TIMOTHY HEALY,
Attorneys for Appellants.

[Endorsed]: Filed Jan. 14, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [1*]

*Page number appearing at foot of page of original certified Record.

In the District Court of the United States, in and for the Northern District of California, First Division.

No. 15,479.

In the Matter of the Application of TIMOTHY HEALY for a Writ of Habeas Corpus for and on Behalf of RHAGAT SINGH, SOWAN SINGH, ARJAN SINGH, PARTAB SINGH, ASA SINGH, SAPURAN SINGH, SOBA SINGH, SHAM SINGH, VIRYAN SINGH, SOHN SINGH, NARON SINGH and GULAM NABI.

Petition [in Case No. 15,479] for a Writ of Habeas Corpus.

To the Honorable M. T. DOOLING, Judge of the Above-entitled Court.

The petition of Timothy Healy respectfully shows:

1.

That your petitioner is a resident of the City and County of San Francisco, State of California, and that he is an attorney at law and attorney of record for RHAGAT SINGH, SOWAN SINGH, ARJAN SINGH, PARTAB SINGH, ASA SINGH, SAPURAN SINGH, SOBA SINGH, SHAM SINGH, VIRYAN SINGH, SOHN SINGH, NARON SINGH and GULAM NABI, for whom *and behalf* of whom this petition is made.

2.

That the petition is made for and on behalf of these twelve men thus grouped together for the rea-

son that they thus are grouped by the DEPARTMENT OF LABOR of the UNITED STATES.

3.

That for the convenience of the Court the persons for whom and upon whose behalf this petition is filed will be referred to herein as RHAGAT SINGH and ELEVEN OTHER HINDOOS.

4.

That the said RHAGAT SINGH and ELEVEN OTHER HINDOOS are *bona fide* domiciled residents, inhabitants and denizens of [2] the United States of America; that they were born in India and are subjects of Great Britain; that they came to the United States from the Republic of China, and were admitted after due inspection by the immigration officers at the Port of Manila and thereupon became and ever since have been and now are lawfully in the United States of America; that upon their arrival in Manila they paid the head tax required by the provisions of Immigration Act, February 20, 1907 (34 Stat. 898), as amended by the acts of March 26, 1910 (36 Stat. 263), and March 4, 1913, and the Immigration Rules of November 15, 1911.

5.

That after residing for various periods in Manila, Rhagat Singh and Eleven Other Hindoos signified to the immigration officers and the insular collector of customs at Manila an intention to go to the continent, and were furnished with certificates (Form 546-P. I.) as evidence of their regular entry at an insular port.

6.

That thereafter, in order to move from one part of the territory and jurisdiction of the United States of America, Rhagat Singh and Eleven Other Hindoos sailed from the Port of Manila as passengers on the steamship "Persia" to take up their residence and continue their domicile and remain denizens of the United States in another part of the territory and jurisdiction of the United States of America, and, on August 2, 1913, arrived in the Port of San Francisco.

7.

That the said Rhagat Singh and Eleven Other Hindoos are unlawfully imprisoned, detained, confined and restrained of their liberty by Samuel W. Backus, Commissioner of Immigration at the Port of San Francisco at the Immigration Station at Angel Island, California, or at some other place in the [3] Northern District of California, and are about to be deported to India from the United States and from the State of California and from their domicile and to be deprived of their residence and the privileges and immunities of denizens of the United States of America against their will and consent.

8.

That the illegality of such imprisonment, restraint, detention and confinement consists in this, to wit:

That the said Rhagat Singh and Eleven Other Hindoos were upon their arrival as passengers on the steamship "Persia" in the Port of San Francisco on July 29, 1913, arrested and taken into custody by the said Commissioner of Immigration; that subsequent to

their departure from one part of the jurisdiction and territory of the United States and their arrival in another part of the jurisdiction and territory of the United States and to their arrest in the Port of San Francisco, a warrant was issued by the Secretary of Labor of the United States whereby it was ordered that the said Rhagat Singh and Eleven Other Hindoos be deported to India, a copy of which warrant is hereto attached and made a part hereof and is marked Exhibit "A"; that the said Rhagat Singh and Eleven Other Hindoos are so imprisoned, detained, confined and restrained of their liberty by the said Commissioner of Immigration as aforesaid, and are about to be deported as aforesaid, and the said Commissioner claims the right to so imprison, detain, confine and restrain, and to so deport the said Rhagat Singh and Eleven Other Hindoos under and by virtue of the warrant of deportation.

That prior to the issuance of the said warrant of deportation the said Rhagat Singh and Eleven Other Hindoos were, and they have always been by said Commissioner and by the said Secretary of Labor refused and denied a fair hearing in good faith, such as is guaranteed them by law; and said warrant of deportation was issued by said Secretary of Labor by and through [4] a manifest abuse of the discretion committed to him by law and through errors and mistakes of law; and in that regard petitioner alleges:

1. That subsequent to the said entry into the United States of Rhagat Singh and Eleven Other Hindoos, and prior to the issuance of said warrant of

deportation, to wit, on July 29, 1913, the said Rhagat Singh and Eleven Other Hindoos were taken into custody by the said Commissioner, an application was made to the Secretary of Labor by Samuel W. Backus, Commissioner of Immigration, for a warrant for the arrest of the said Rhagat Singh and Eleven Other Hindoos, a copy of which application is attached hereto and made a part hereof and marked Exhibit "B"; in which said application it was charged that the said Rhagat Singh and Eleven Other Hindoos are liable to become public charges for the following reasons: That they are of the laboring class; that there is a strong prejudice against them, and that there exists no demand for such labor; that thereafter and on July 30, 1913, a warrant was issued by the then Acting Secretary of Labor for the arrest of the said Rhagat Singh and Eleven Other Hindoos, a copy of which warrant is hereto attached and made a part hereof and marked Exhibit "C," in which warrant it is charged "That the said aliens are members of the excluded classes in that they were persons likely to become public charges at the time of their entry into the United States."

2. That on the same day, July 30, 1913, the said Rhagat Singh, Sowan Singh, Arjan Singh, Partab Singh, Asa Singh, Sapuran Singh, Soba Singh, Sham Singh, Viryan Singh, Sohn Singh, Naron Singh and Gulam Nabi were, while detained and under arrest at said Immigration Station at Angel Island, examined by Examining Inspector R. E. Peabody, through an interpreter, which said examination was

reduced to a written record by an [5] official stenographer, a copy of which record is attached hereto and made a part hereof and marked Exhibit "D"; that at said examination the above-named subjects of examination answered to the best of their abilities all of the questions which were then propounded to them.

3. That the record of the above-mentioned examinations discloses upon its face that Rhagat Singh and Eleven Other Hindoos were not informed of the charges or allegations made against them or of the issuance of the warrants for their arrest until the conclusion of their examinations.

4. That at the above-mentioned examination the said Rhagat Singh and Eleven Other Hindoos were the only persons examined; no testimony or evidence of any kind or character other than that of the said Rhagat Singh and Eleven Other Hindoos was taken or offered; there has been no other, further or subsequent hearing of which Rhagat Singh and Eleven Other Hindoos or the attorneys of Rhagat Singh and Eleven Other Hindoos or your petitioner had any notice, knowledge or information.

5. That the said Rhagat Singh and Eleven Other Hindoos were informed by the said Examining Inspector R. E. Peabody at the conclusion of their examinations that "You are further informed that this hearing is given you for the purpose of giving you opportunity to show cause, if any you have, why you should not be deported," and that thereafter Rhagat Singh and Eleven Other Hindoos offered and filed with the said Samuel W. Backus, Commissioner

of Immigration, affidavits executed in due form by employers of labor in the State of California, in which the affiants, among them I. L. Borden, a member of the STATE BOARD OF AGRICULTURE OF THE STATE OF CALIFORNIA, declare on oath that they have vacancies and are anxious to employ more than five times the number of Hindoos in whose behalf this petition is filed, that they do not know of a single Hindoo in [6] America who has become a public charge and that there is steady employment for these men the year around, and that they know of no prejudice among employers of labor against this class of aliens, which affidavits are made a part hereof and marked Exhibit "E," being in the form of copies of the originals.

6. That the attorneys representing said Rhagat Singh and Eleven Other Hindoos, John L. McNab and Timothy Healy, were, and the said Rhagat Singh and Eleven Other Hindoos were thereupon informed by Commissioner of Immigration Samuel W. Backus, through Immigration Inspector F. H. Ainsworth, that the cases were closed and the record completed and ready for submission to the Secretary of Labor; and the said Commissioner of Immigration, Samuel W. Backus, through Immigration Inspector Ainsworth, invited the attorneys representing Rhagat Singh and Eleven Other Hindoos to file a brief if they so desired, in which brief the closed record and its contents might be discussed; and the said attorneys, John L. McNab filed a brief as part of the record, which brief is made a part hereof and is marked Exhibit "A"; that thereupon the said Sam-

uel W. Backus said the case would be at once sent to the Secretary of Labor for decision and judgment and that no further evidence and no further hearings or testimony would be introduced, held or heard on one side or the other; that at that time, on or about August 20th, 1913, there was no evidence to support the charges that Rhagat Singh and Eleven Other Hindoos ever had been or ever would become public charges or that they ever were or ever would be likely to become public charges.

7. That on September 25, 1913, your petitioner was informed by Immigration Inspector Frank H. Ainsworth at Angel Island that the record had not been closed on or about August 20, 1913, and had been ever since and was on September 25, 1913, open and being added to by the said Commissioner of Immigration [7] Samuel W. Backus; that neither Rhagat Singh and Eleven Other Hindoos, nor the attorneys of Rhagat Singh and Eleven Other Hindoos, nor any one of them, had any notice or knowledge that the record was being kept open.

8. That the said Samuel W. Backus detailed W. H. Chadney, an Immigration Inspector, and H. Schmoldt, a stenographer, to canvass the people of the State of California for evidence to support the charges made against the said Rhagat Singh and Eleven Other Hindoos; that no evidence was obtained, but that there was placed in the reopened record certain expressions of passion and prejudice culled from persons in various parts of the State of California in the form of affidavits, interviews and letters, made, given and written by persons un-

known to your petitioner or Rhagat Singh, in *ex parte* proceedings, and without Rhagat Singh and Eleven Other Hindoos or any of them or their attorneys having an opportunity to cross-examine the persons who made the affidavits, gave the interviews or wrote the letters; that the herein-mentioned affidavits, interviews and letters are made a part hereof and are marked Exhibit "G."

9. That Commissioner of Immigration Samuel W. Backus informed your petitioner on or about September 25 of the reopening of the record in the case of Rhagat Singh and Eleven Other Hindoos and invited a counter showing and additional brief on behalf of Rhagat Singh and Eleven Other Hindoos and the attorneys for Rhagat Singh and Eleven Other Hindoos filed for record a respectful, but earnest protest against the procedure adopted by the Department of Labor in reopening the record, and additional brief and additional evidence, which is made a part hereof and is marked Exhibit "H."

10. That thereafter, according to petitioner's information and belief, a certain so-called record was compiled by said Inspector Ainsworth under and by direction of said Commissioner [8] Samuel W. Backus, a complete copy of which said so-called record is contained, so far as your petitioner is informed and believes, in the said Exhibits "A," "B," "C," "D," "E," "F," "G" and "H," except that there are in addition thereto, according to your petitioner's information and belief, a certain document described as "the views in writing of the immigration officer in charge," which is not included here for

the reason that your petitioner, now Rhagat Singh and Eleven Other Hindoos nor the attorneys for Rhagat Singh and Eleven Other Hindoos ever have seen it; and there also is omitted from the copy of the record herewith about one thousand (1,000) newspaper columns of newspaper clippings of matters, views and reports of occurrences adverse and prejudicial to the interest of the Hindoos as a race, the reason for the omission being that the Asiatic Exclusion League of California, which organization furnished these clippings to the Department of Labor, have not another set to furnish to your petitioner, your petitioner believes, and as the clippings are from newspapers published in all sections of the United States, and bear dates from 1909 to the present time, it is a physical impossibility to duplicate those clippings; and Rhagat Singh and Eleven Other Hindoos have not sufficient funds to defray the expenses of copying that great volume of matter, about 99 per cent of which is printed in what is known as nonpareil or 6-point type; furthermore, your petitioner is informed by Inspector Ainsworth, and believes, that the Department of Labor is under promise to return the said estimated one thousand (1,000) columns of newspaper clippings adverse to the interests of the Hindoos as a race to the said Asiatic Exclusion League at the conclusion of the matter herewith brought before your Honorable Court, which is an additional reason for considering the newspaper clippings inaccessible to your petitioner; this so-called record and nothing more in regard to said Rhagat Singh and Eleven Other Hin-

doos was transmitted [9] to the said Secretary of Labor, your petitioner is informed and believes, the mode of transmission being by United States mail.

9.

That the said Secretary of Labor and the said Commissioner of Immigration refused and denied the said Rhagat Singh and Eleven Other Hindoos a fair hearing in good faith as alleged in paragraph 8 of this petition in this, to wit:

1. That the said warrant of deportation was so issued as aforesaid by the said Secretary of Labor upon and by a finding made by the said Secretary that the said Rhagat Singh and Eleven Other Hindoos are members of the excluded classes in that they were persons likely to become public charges at the time of their entry into the United States, and in this regard petitioner refers to Exhibits "A," "B," and "C"; that the said finding was so made and the said warrant of deportation was so issued by the said Secretary without any competent evidence having been submitted to him and without any competent evidence having been produced by the said Commissioner for the inspection of either of the said Rhagat Singh and Eleven Other Hindoos or their said attorneys, in which regard reference is hereby made to all the exhibits attached hereto.

2. That the said Commissioner reopened the record in the case of Rhagat Singh and Eleven Other Hindoos after it had been closed and introduced and caused to be incorporated into the record a document prepared by W. H. Chadney, Immigration Inspector, and a large number of affidavits, interviews

and writings of passion and prejudice, and in this regard reference is hereby made to Exhibit "G"; that counsel for said Rhagat Singh and Eleven Other Hindoos objected to the said reopening of the record and the introduction of said Exhibit "G," that said objection was overruled by said Commissioner and said documents were incorporated in the record which was subsequently [10] submitted to the said Secretary of Labor, and in this regard reference is made to Exhibit "G."

10.

That the said Secretary of Labor issued said warrant of deportation and so directed the deportation of said Rhagat Singh and Eleven Other Hindoos by and through a manifest abuse as alleged in paragraph 8, of the discretion committed to him by law, in this, to wit, for the same reasons and in the same manner as alleged in subdivisions 1, 2, and 3, of paragraph 8 of this petition, and in that regard petitioner makes the same allegations and references as are made in said subdivisions 1, 2, and 3, of paragraph 8.

11.

That the said Secretary of Labor issued said warrant of deportation and so directed the deportation of the said Rhagat Singh and Eleven Other Hindoos by and through errors and mistake of law as hereto alleged in paragraph 8 hereof, in this, to wit, for the same reasons and in the same manner set forth in subdivisions 1, 2, and 3, of paragraph 8, and in that regard petitioner makes the same allegations and the same references as are contained in said subdivisions 1, 2, and 3 of paragraph 8 of this petition.

12.

That the said Rhagat Singh and Eleven Other Hindoos have exhausted all their rights and remedies before the Department of Labor; that the said warrant of deportation is final as the judgment of said Department of Labor, and that there is no appeal therefrom provided by law; that unless a writ of habeas corpus issues out of this Court directed to the said Samuel W. Backus, Commissioner of Immigration as aforesaid, to whom the said warrant of deportation was directed, and in whose custody the body of the said Rhagat Singh and the bodies of Eleven Other Hindoos are, the said Rhagat Singh and Eleven Other Hindoos [11] will forthwith be deported from the United States to India.

WHEREFORE, your petitioner prays that a writ of habeas corpus be issued by this Honorable Court commanding said Samuel W. Backus, Commissioner of Immigration at the Port of San Francisco, to have and to produce the bodies of the said Rhagat Singh and Eleven Other Hindoos before this Honorable Court at its courtroom in the City and County of San Francisco, in the Northern District of California, at the beginning of Court on a day certain, in order that the alleged cause of imprisonment and restraint of the said Rhagat Singh and Eleven Other Hindoos, and the legality or illegality thereof, may be inquired into, and in order that, in case the said imprisonment and restraint are unlawful and illegal, the said Rhagat Singh and Eleven Other Hindoos be discharged from all custody and restraint, or that the said Rhagat Singh and Eleven Other Hindoos be admitted

to just and reasonable bail pending all proceedings herein.

Dated this 17th day of October, 1913.

TIMOTHY HEALY,
Petitioner.

JOHN L. McNAB,
TIMOTHY HEALY,

Attorneys for Rhagat Singh and Eleven Other
Hindoos.

State of California,
City and County of San Francisco,—ss.

Timothy Healy, being duly sworn, deposes and says: That he is the petitioner named in the above and foregoing petition; that he has heard the same read and knows the contents thereof; that the same is true of his own knowledge except as to those things which are therein stated on his information and belief and as to those things he believes it to be true.

TIMOTHY HEALY.

Subscribed and sworn to before me this 17th day of October, 1913.

[Seal] LLOYD MACOMBER,
Notary Public in and for the City and County of San
Francisco, State of California. [12]

*In the District Court of the United States in and for
the Northern District of California, First Divi-
sion.*

No. 15,480.

In the Matter of the Application of TIMOTHY HEALY for a Writ of Habeas Corpus for and on Behalf of SUNDAR or SANDU SINGH, NARON SINGH, BISHAN or BISHEN SINGH, FOMAN SINGH, JAGAT or JAGOT SINGH, JAMIT or JAWAT SINGH, MADA RAM or MADO PAN, FERROZ KHAN, MAHBUB or MAHBUT ALI, ABDOOLAH or ABDULLA KHAN.

Petition [in Case No. 15,480] for a Writ of Habeas Corpus.

To the Honorable M. T. DOOLING, Judge of the Above-entitled Court.

The petition of Timothy Healy respectfully shows:

1.

That your petitioner is a resident of the City and County of San Francisco, State of California, and that he is an attorney at law and attorney of record for SUNDAR or SANDU SINGH, NARON SINGH, BISHAM or BISHEN SINGH, FOMAN SINGH, JAGAT or JAGOT SINGH, JAMIT or JAWAT SINGH, MADA RAM or MADO PAN, FERROZ KHAN, MAHBUB or MAHBUT ALI, ABDOOLAH or ABDULLA KHAN for whom and behalf of whom this petition is made.

2.

That the petition is made for and on behalf of

these ten men thus grouped together for the reason that they thus are grouped by the DEPARTMENT OF LABOR OF THE UNITED STATES.

3.

That for the convenience of the Court the persons [112] for whom and upon whose behalf this petition is filed will be referred to herein as SUNDAR SINGH and NINE OTHER HINDOOS.

4.

That the said Sundar Singh and Nine Other Hindoos are *bona fide* domiciled residents, inhabitants and denizens of the United States of America; that they were born in India and are subjects of Great Britain; that they came to the United States from the Republic of China, and were admitted after due inspection by the immigration officers at the Port of Manila and thereupon became and ever since have been and now are lawfully in the United States of America; that upon their arrival in Manila they paid the head tax required by the provisions of Immigration Act, February 20, 1907 (34 Stat. 898), as amended by the acts of March 26, 1910 (36 Stat. 263), and March 4, 1913, and the Immigration Rules of November 15, 1911.

5.

That after residing for various periods in Manila Sundar Singh and Nine Other Hindoos signified to the Immigration Officers and the insular collector of customs at Manila an intention to go to the continent and were furnished with certificates (Form 546-P. I.) as evidence of their regular entry at an insular port.

6.

That thereafter, in order to move from one port to the territory and jurisdiction of the United States of America, Sundar Singh and Nine Other Hindoos sailed from the Port of Manila as passengers on the steamship "Korea" to take up their residence and continue their domicile and remain denizens of the United States in another part of the territory and jurisdiction of the United States of America and, on August 2, 1913, arrived in the Port of San Francisco.

7.

That the said Sundar Singh and Nine Other Hindoos are [113] unlawfully imprisoned, detained, confined and restrained of their liberty by Samuel W. Backus, Commissioner of Immigration at the Port of San Francisco, at the Immigration Station at Angel Island, California, or at some other place in the Northern District of California, and are about to be deported to India from the United States and from the State of California and from their domicile and to be deprived of their residence and the privileges and immunities of denizens of the United States of America against their will and consent.

8.

That the illegality of such imprisonment, restraint, detention and confinement consists in this, to wit:

That the said Sundar Singh and Nine Other Hindoos were upon their arrival as passengers on the steamship "Korea" in the Port of San Francisco on August 2, 1913, arrested and taken into custody by the said Commissioner of Immigration; that subsequent to their departure from one part of the juris-

diction and territory of the United States and their arrival in another part of the jurisdiction and territory of the United States and to their arrest in the Port of San Francisco, a warrant was issued by the Secretary of Labor of the United States, whereby it was ordered that the said Sundar Singh and Nine Other Hindoos be deported to India, a copy of which warrant is hereto attached and made a part hereof and is marked Exhibit "A"; that the said Sundar Singh and Nine Other Hindoos are so imprisoned, detained, confined and restrained of their liberty by the said Commissioner of Immigration as aforesaid, and are about to be deported as aforesaid, and the said Commissioner claims the right to so imprison, detain, confine and restrain, and to so deport the said Sundar Singh and Nine Other Hindoos under and by virtue of the warrant of deportation.

That prior to the issuance of the said warrant of deportation the said Sundar Singh and Nine Other Hindoos was, and they have always been by said Commissioner and by the said [114] Secretary of Labor refused and denied a fair hearing in good faith, such as is guaranteed them by law; and said warrant of deportation was issued by said Secretary of Labor by and through a manifest abuse of the discretion committed to him by law and through errors and mistakes of law; and in that regard petitioner alleges.

1. That subsequent to the said entry into the United States of Sundar Singh and Nine Other Hindoos, and prior to the issuance of said warrant of deportation, to wit, on August 5, 1913, three days

after the said Sundar Singh and Nine Other Hindoos were taken into custody by the said Commissioner, an application was made to the Secretary of Labor by Samuel W. Backus, Commissioner of Immigration, for a warrant for the arrest of the said Sundar Singh and Nine Other Hindoos, a copy of which application is attached hereto and made a part hereof and marked Exhibit "B"; in which said application it was charged that the said Sundar Singh and Nine Other Hindoos are liable to become public charges for the following reasons: That they are of the laboring class; that there is a strong prejudice against them, and that there exists no demand for such labor; that thereafter and on August 5, 1913, a warrant was issued by the then Acting Secretary of Labor for the arrest of the said Sundar Singh and Nine Other Hindoos, a copy of which warrant is hereto attached and made a part hereof and marked Exhibit "C," in which warrant it is charged "That the said aliens are members of the excluded classes in that they were persons likely to become public charges at the time of their entry into the United States."

2. That on the same day, August 5, 1913, the said Sundar or Sandu Singh, Naron Singh, Bisham or Bishen Singh, Foman Singh, Jagat or Jagot Singh, Jamit or Jawat Singh, Mada Ram or Mado Pan, Ferroz Khan and Abdoolah or Abdullar Khan, and on August 12, 1913, Mahbub or Mahbut Ali, were, while detained and under arrest at said Immigration Station at Angel Island, examined by [115] Examining Inspector R. E. Peabody, through an interpreter, which said examination was reduced to a

written record by an official stenographer, a copy of which record is hereto attached hereto and made a part hereof and marked Exhibit "D"; that at said examinations the above-named subjects of examination answered to the best of their abilities all of the questions which were then propounded to them.

3. That the record of the above-mentioned examinations discloses upon its face that Sundar Singh and Nine Other Hindoos were not informed of the charges or allegations made against them or of the issuance of the warrants for their arrest until the conclusion of their examinations.

4 and 5. That at the above-mentioned examinations the said Sundar Singh and Nine Other Hindoos were the only persons examined; no testimony or evidence of any kind or character other than that of the said Sundar Singh and Nine Other Hindoos was taken or offered; there has been no other, further or subsequent hearing of which Sundar Singh and Nine Other Hindoos or the attorneys of Sundar Singh and Nine Other Hindoos or your petitioner had any notice, knowledge or information.

6. That the said Sundar Singh and Nine Other Hindoos were informed by the said Examining Inspector, R. E. Peabody, at the conclusion of their examinations that "You are further informed that this hearing is given you for the purpose of giving you opportunity to show cause, if any you have, why you should not be deported," and that thereafter Sundar Singh and Nine Other Hindoos offered and filed with the said Samuel W. Backus, Commissioner of Immigration, affidavits executed in due form by

employers of labor in the State of California, in which the affiants, among them I. L. Borden, a member of the STATE BOARD OF AGRICULTURE OF THE STATE OF CALIFORNIA, declare on oath that they have vacancies and are anxious to employ more than five times the number of Hindoos in whose behalf this petition is filed, that they do not know of a [116] single Hindoo in America who has become a public charge and that there is steady employment for these men the year around, and that they know of no prejudice among employers of labor against this class of aliens, which affidavits are made a part thereof and marked Exhibit "E," being in the form of copies of the originals.

7. That the attorneys representing said Sundar Singh and Nine Other Hindoos, John L. McNab and Timothy Healy, were, and the said Sundar Singh and Nine Other Hindoos were thereupon informed by Commissioner of Immigration, Samuel W. Backus, through Immigration Inspector, F. H. Ainsworth, that the cases were closed and the record completed and ready for submission to the Secretary of Labor; and the said Commissioner of Immigration, Samuel W. Backus, through Immigration Inspector Ainsworth, invited the attorneys representing Sundar Singh and Nine Other Hindoos to file a brief if they so desired, in which brief the closed record and its contents might be discussed; and the said attorneys, John L. McNab filed a brief as part of the record, which brief is made a part hereof and is marked Exhibit "F"; that thereupon the said Samuel W. Backus, said the case would be at once sent to the

Secretary of Labor for decision and judgment and that no further evidence and no further hearings or testimony would be introduced, held or heard on one side or the other; that at that time, on or about August 20, 1913, there was no evidence to support the charges that Sundar Singh and Nine Other Hindoos ever had been or ever would become public charges or that they ever were or ever would be likely to become public charges.

8. That on September 25, 1913, your petitioner was informed by Immigration Inspector, Frank H. Ainsworth at Angel Island that the record had not been closed on or about August 20, 1913, and had been ever since and was on September 25, 1913, open and being added to by the said Commissioner of Immigration Samuel W. Backus; that neither Sundar Singh and [117] Nine Other Hindoos, nor the attorneys of Sundar Singh and Nine Other Hindoos, nor any one of them, had any notice or knowledge that the record was being kept open.

9. That the said Samuel W. Backus detailed W. H. Chadney an Immigration Inspector, and H. Schmedt, a stenographer to canvass the people of the State of California for evidence to support the charges made against the said Sundar Singh and Nine Other Hindoos; that no evidence was obtained, but that there was placed in the reopened record certain expressions of passion and prejudice culled from persons in various parts of the State of California in the form of affidavits, interviews and letters, made, given and written by persons unknown to your petitioner or Sundar Singh, in *ex parte* proceedings, and

without Sundar Singh and Nine Other Hindoos, or any of them or their attorneys having an opportunity to cross-examine the persons who made the affidavits, gave the interviews or wrote the letters; that the herein mentioned affidavits, interviews and letters are made a part hereof and are marked Exhibit "G."

9. That Commissioner of Immigration, Samuel W. Backus, informed your petitioner on or about September 25 of the reopening of the record in the case of Sundar Singh and Nine Other Hindoos and invited a counter showing and additional brief on behalf of Sundar Singh and Nine Other Hindoos, and the attorneys for Sundar Singh and Nine Other Hindoos filed for record a respectful, but earnest protest against the procedure adopted by the Department of Labor in reopening the record, and additional brief and *addition* evidence, which is made a part hereof and is marked Exhibit "H."

10. That thereafter, according to petitioner's information and belief, a certain so-called record was compiled by said Inspector Ainsworth under and by direction of said Commissioner Samuel W. Backus, a complete copy of which said so-called record is contained, so far as your petitioner is informed and [118] believes, in the said Exhibits "A," "B," "C," "D," "E," "F," "G," and "H," except that there are in addition thereto, according to your petitioner's information and belief, a certain document described as "the views in writing of the immigration officer in charge," which is not included here, for the reason that your petitioner nor Sundar Singh and Nine

Other Hindoos nor the attorneys for Sundar Singh and Nine Other Hindoos ever have seen it; and there also is omitted from the copy of the record herewith about one thousand (1,000) newspaper columns of newspaper clippings of matters, views and reports of occurrences adverse and prejudicial to the interest of the Hindoos as a race, the reason for the omission being that the Asiatic Exclusion League of California, which organization furnished these clippings to the Department of Labor, have not another set to furnish to your petitioner, your petitioner believes, and as the clippings are from newspapers published in all sections of the United States, and bear dates from 1909 to the present time, it is a physical impossibility to duplicate those clippings; and Sundar Singh and Nine Other Hindoos have not sufficient funds to defray the expenses of copying that great volume of matter, about 99 per cent of which is printed in what is known as nonpareil or 6-point type; furthermore, your petitioner is informed by Inspector Ainsworth, and believes, that the Department of Labor is under promise to return the said estimated one thousand (1,000) columns of newspaper clippings adverse to the interests of the Hindoos as a race to the said Asiatic Exclusion League at the conclusion of the matter herewith brought before your Honorable Court, which is an additional reason for considering the newspaper clippings inaccessible to your petitioner; this so-called record and nothing more in regard to said Sundar Singh and Nine Other Hindoos was transmitted to the said Secretary of Labor, your [119] petitioner is informed and believes, the mode

of transmission being by United States Mail.

9.

That the said Secretary of Labor and the said Commissioner of Immigration refused and denied the said Sundar Singh and Nine Other Hindoos a fair hearing in good faith as alleged in paragraph 8 of this petition in this, to wit:

1. That the said warrant of deportation was so issued as aforesaid by the said Secretary of Labor upon and by a finding made by the said Secretary that the said Sundar Singh and Nine Other Hindoos are members of the excluded classes in that they were persons likely to become public charges at the time of their entry into the United States, and in this regard petitioner refers to Exhibits "A," "B" and "C"; that the said finding was so made and the said warrant of deportation was so issued by the said Secretary without any competent evidence having been submitted to him and without any competent evidence having been produced by the said Commissioner for the inspection of either of the said Sundar Singh and Nine Other Hindoos or their said attorneys, in which regard reference is hereby made to all the exhibits attached hereto.

2. That the said Commissioner reopened the record in the case of Sundar Singh and Nine Other Hindoos after it had been closed and introduced and caused to be incorporated into the record a document prepared by W. H. Chadney, Immigration Inspector, and a large *number affidavits*, interviews and writings of passion and prejudice, and in this regard reference is hereby made to Exhibit "G"; that coun-

sel for said Sundar Singh and Nine Other Hindoos objected to the said reopening of the record and the introduction of said Exhibit "G"; that said objection was overruled by said Commissioner and said documents were incorporated in the record which was [120] subsequently submitted to the said Secretary of Labor, and in this regard reference is made to Exhibit "G."

10.

That the said Secretary of Labor issued said warrant of deportation and so directed the deportation of said Sundar Singh and Nine Other Hindoos by and through a manifest abuse as alleged in paragraph 8, of the discretion committed to him by law, in this, to wit: For the same reasons and in the same manner as alleged in subdivisions 1, 2, and 3 of paragraph 8 of this petition, and in that regard petitioner makes the same allegations and references as are made in said subdivisions 1, 2, and 3 of paragraph 8.

11.

That the said Secretary of Labor issued said warrant of deportation and so directed the deportation of the said Sundar Singh and Nine Other Hindoos by and through errors and mistake of law as hereto alleged in paragraph 8 hereof, in this, to wit: For the same reasons and in the same manner set forth in subdivisions 1, 2, and 3 of paragraph 8, and in that regard petitioner makes the same allegations and the same references as are contained in said subdivisions 1, 2 and 3 of paragraph 8 of this petition.

12.

That the said Sundar Singh and Nine Other Hin-

doos has exhausted all their rights and remedies before the Department of Labor; that the said warrant of deportation is final as the judgment of said Department of Labor, and that there is no appeal therefrom provided by law; that unless a writ of *habeas corpus* issues out of this court directed to the said Samuel W. Backus, Commissioner of Immigration as aforesaid, to whom the said warrant of deportation was directed, and in whose custody the body of the said Sundar Singh and the bodies of Nine Other Hindoos are, the said Sundar Singh and Nine [121] Other Hindoos will forthwith be deported from the United States to India.

WHEREFORE, your petitioner prays that a writ of *habeas corpus* be issued by this Honorable Court commanding said Samuel W. Backus, Commissioner of Immigration at the Port of San Francisco, to have and to produce the bodies of the said Sundar Singh and Nine Other Hindoos before this Honorable Court at its courtroom in the City and County of San Francisco, in the Northern District of California, at the beginning of court on a day certain, in order that the alleged cause of imprisonment and restraint of the said Sundar Singh and Nine Other Hindoos and the legality or illegality thereof may be inquired into, and in order that, in case the said imprisonment and restraint are unlawful and illegal, to said Sundar Singh and Nine Other Hindoos be discharged from all custody and restraint, or that the said Sundar Singh and Nine Other Hindoos be admitted to just and reasonable bail pending all proceedings herein.

Dated this 17th day of October, 1913.

TIMOTHY HEALY,
Petitioner.

JOHN L. McNAB,
TIMOTHY HEALY,

Attorneys for Sundar Singh and Nine Other Hindoos. [122]

State of California,

City and County of San Francisco,—ss.

Timothy Healy, being duly sworn, deposes and says: That he is the petitioner named in the above and foregoing petition; that he has heard the same read and knows the contents thereof; that the same is true of his own knowledge except as to those things which are therein stated on his information and belief, and as to those things he believes it to be true.

[Seal] TIMOTHY HEALY.

Subscribed and sworn to before me this 17th day of October, 1913.

LLOYD MACOMBER,
Notary Public in and for the City and County of San Francisco, State of California. [123]

(Style of Court, Title and Number of Cause.)

Order to Show Cause [in Case No. 15,479].

Upon consideration of the Petition, it is ordered that the respondent, the Commissioner of Immigration at the Port of San Francisco, show cause in this court at the courtroom thereof in the City and County of San Francisco, at 2 o'clock P. M. on Monday, the 20 day of October, 1913, why the writ of

habeas corpus should not issue as prayed for by the petitioner.

Let a copy of this order be served forthwith upon said respondent and upon the United States Attorney for this District, and that deportation be stayed.

October 18th, 1913.

M. T. DOOLING,

Judge of the United States District Court.

[Endorsed]: Filed Oct. 18, 1913. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [221]

(Style of Court, Title and Number of Cause.)

Order to Show Cause [in Case No. 15,480].

Upon consideration of the petition, it is ordered that the respondent, the Commissioner of Immigration at the Port of San Francisco, show cause in this court at the courtroom thereof, in the City and County of San Francisco, at 2 o'clock P. M. on Monday, the 20 day of October, 1913, why the writ of *habeas corpus* should not issue as prayed for by the petitioner.

Let a copy of this order be served forthwith upon said respondent and upon the United States Attorney for this District, and that deportation be stayed.

October 18th, 1913.

M. T. DOOLING,

Judge of the United States District Court.

[Endorsed]: Filed Oct. 18, 1913. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [222]

(Style of Court, Title and Number of Cause.)

Return [to Order to Show Cause in Case No. 15,479].

Now comes Samuel W. Backus, Commissioner of Immigration at the Port of San Francisco, by Charles D. Mayer, Immigrant Inspector, and in return to the Order to Show Cause issued by said Court on the Petition of Timothy Healy for a writ of *habeas corpus*, respectfully shows that your respondent holds RHAGAT SINGH, SOWAN SINGH, ARJAN SINGH, PARTAB SINGH, ASA SINGH, SAPURAN SINGH, SOBA SINGH, SHAM SINGH, VIRYAN SINGH, SOHN SINGH, NARON SINGH, and GULAM NABI under an order of deportation signed and issued by the Honorable Secretary of Labor, and dated October 10th, 1913.

I.

Respondent admits each and every allegation contained in paragraphs 1, 2, and 3 of the Petition, except that in paragraph 3 respondent denies that the alien Hindoos were *bona fide* residents of the United States, or that they are lawfully in the United States.

II.

Respondent admits each and every allegation contained in paragraphs 5, 6, and 7 of the Petition, except that in paragraph 7 thereof respondent denies that the alien Hindoos are unlawfully imprisoned, detained, confined and restrained of their liberty.

III.

Respondent admits each and every allegation [223] contained in the introductory statement of paragraph 8 of the Petition.

Respondent admits each and every allegation of subdivisions 1 and 2 of paragraph 8 of the Petition, but denies that the Hindoos did answer fully and to the best of their ability the questions put to them at the examination before Immigrant Inspector R. E. Peabody on July 30, 1913.

Respondent admits each and every allegation of subdivision 3 of paragraph 8 of Petition, but alleges further that such action was in accordance with rule 22, subdivision 4, of the Immigration Regulations, which provides that the applicant need not be informed of the charges against him until the end of the preliminary hearing.

Respondent denies each and every allegation of subdivision 4 of paragraph 8 of the Petition.

Respondent admits each and every allegation in subdivision 5 of paragraph 8 of the Petition, but alleges further that with the exception of the affidavit of I. L. Borden, and two others, all of the affidavits put in evidence by petitioner, were made by Hindoos. Respondent alleges further that affidavits of state and county officials throughout the State of California were made opposing the admission of Hindoos into the United States. The names and respective offices of some of such affiants are as follows:

Paul Sharrenberg, Secretary Treasurer California State Federation of Labor: [224]

John P. McLaughlin, Commissioner of Labor for the State of California.

F. E. Sullivan, General Manager Spreckels Sugar Co.

H. E. Davis, Under-sheriff, Monterey Co., Cal.

T. J. Vitaich, Business Agent, San Joaquin County Central Labor Council.

Frank B. Braire, Chief of Police, Stockton, Cal.

Wm. Johnson, Chief of Police, Sacramento, Cal.

Eugene S. Wachhorst, District Attorney, Sacramento, Cal.

George E. Gee, Secretary Yuba County Trades Council.

J. P. Onstott, Farmer, Yuba City, Cal.

Charles J. McCoy, Chief of Police, Marysville, Cal.

P. Brannan, Special Officer, Marysville, Cal.

Harry E. Hyde, Mayor, Marysville, Cal.

J. V. Parks, Justice of the Peace, Oroville, Cal.

Wm. Lewis Kurran, Marshal, Oroville, Cal.

James J. Wood, Theatre Manager, Chico, Cal.

C. E. Daly, Merchant, Chico, Cal.

H. Moir, Postmaster, Chico, Cal.

F. J. Nottelmann, Merchant, Chico, Cal.

J. N. Kelly, Merchant, Chico, Cal.

M. G. Polk, County Surveyor, Butte Co., Cal.

Lon Bond, Attorney, Chico.

J. L. Barnes, Justice of the Peace, Chico, Cal.

M. H. Goe, Marshal, Chico, Cal.

Wm. Robbie, Mayor, Chico, Cal.

E. C. Hamilton, Manager Sacramento Valley Sugar Co.

Geo. A. Dean, Secretary San Joaquin County Central Labor Council.

H. Hamer, Immigrant Inspector, Bellingham, Wash.

[225]

The consensus of opinion as set forth by these affi-

davits which are appended to the Petition as exhibits is to the effect that the Hindoo is an undesirable citizen; that he is filthy, unsanitary, immoral, gives the officials continuous trouble by becoming intoxicated and subject to arrest; that he is a disagreeable member of every community because of his uncleanness and offensive odor; that he becomes a public nuisance in crowding the sidewalks, street corners, postoffices and other public buildings; that merchants, theatrical managers and business men generally exclude him from their places of business; that the Hindoo is unreliable; that he is a petty thief, nomadic in his habits, will not remain employed in any particular work unless under a strict contract; that his standard of living is of the very lowest and that he does not rear families or permanently establish himself in the country in which he works; that he is a degenerate physically, and generally in a weak and enervated condition, and invariably afflicted with the disease of hookworm; that the Hindoo belongs to the laboring class; that demand for Hindoo labor is very limited, and if desired at all is only for transient periods, and because of the strong prejudice against him, and the fact that he is continually a public nuisance and a burden to all society, it is deemed by all the affiants above named that he is likely to become a public charge, and that he should be expelled from the country.

Respondent denies each and every allegation in [226] subdivisions 6 and 7 of paragraph 8 of the Petition.

Respondent admits each and every allegation of

subdivision 8 of paragraph 8 of the Petition, with the exception that he denies that the affidavits are merely an expression of passion and prejudice culled from persons in various parts of the State of California, but that the affidavits were *bona fide* expressions of opinion of white merchants and officials in possession of experience and influence, and having come in direct contact with Hindoo laborers.

Respondent admits each and every allegation in subdivision 9 of paragraph 8 of the Petition, and especially admits that the petitioner was allowed to file further evidence in the hearing before the Commissioner of Immigration, but respondent denies that any protest was made to such reopening of the case, except in a final brief filed by said petitioner, and that in a letter signed by one of the attorneys for petitioner, dated September 27th, 1913, directed to Samuel W. Backus, Commissioner of Immigration at Angel Island, California, the statement was made that the attorneys for the petitioner acquiesced in the reopening of the case for further admission of evidence, and thanked the Commissioner for the courtesy in doing so.

IV.

Respondent denies each and every allegation set forth in paragraph 9 of the Petition, and especially denies that any competent evidence was submitted to the Commissioner of Immigration that the said Hindoos were likely to become public charges.

[227]

Respondent admits each and every allegation in subdivision 2 of paragraph 9 of the Petition, with the

exception that he denies that the affidavits filed on behalf of respondent were prejudiced, and further denies that the reopening of the case and the record was protested by the attorneys for the alien Hindoos.

V.

Respondent denies each and every allegation set forth in paragraph 10 of the Petition.

VI.

Respondent denies each and every allegation set forth in paragraph 11 of the Petition.

VII.

Respondent admits each and every allegation set forth in paragraph 12 of said Petition.

WHEREFORE, your respondent prays that a writ of *habeas corpus* do not issue herein, that the Order to Show Cause be discharged, and that the Petition be dismissed.

BENJ. L. McKINLEY,
United States Attorney,
Attorney for Respondent.

WALTER E. HETTMAN,
Assistant U. S. Attorney,
Of Counsel. [228]

United States of America,
Northern District of California,
City and County of San Francisco,—ss.

Charles D. Mayer, being first duly sworn deposes and says:

That he is an Immigrant Inspector connected with the Immigration Service for the port of San Francisco, and has been specially directed to appear for, and represent the respondent, Samuel W. Backus,

Commissioner of Immigration, in the within entitled matter; that he is familiar with all the facts set forth in the within Return to Order to Show Cause, and knows the contents thereof; that it is impossible for the said Samuel W. Backus to appear in person or to give his attention to said matter; that of affiant's own knowledge, the matter set forth in the Return to Order to Show Cause are true, excepting those matters which are stated on information and belief, and that as to those matters, he believes it to be true.

CHARLES D. MAYER.

Subscribed and sworn to before me this 13th day of November, 1913.

[Seal] FRANCIS KRULL,
Deputy Clerk U. S. District Court, Northern District
of California.

Service of the within return by copy admitted this
14th day of Nov., 1913.

T. HEALY,
J. L. McNAB,
Attorneys for Petitioner.

[Endorsed]: Filed Nov. 14, 1913. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [229]

(Style of Court, Title, and Number of Cause.)

**Amended Return [to Order to Show Cause in Case
No. 15,479].**

Now comes Samuel W. Backus, Commissioner of Immigration at the port of San Francisco, by Charles D. Mayer, Immigrant Inspector, and in return to the Order to Show Cause issued by said Court

on the petition of Timothy Healy for a writ of *habeas corpus*, respectfully shows that your respondent holds BHAGAT SINGH, SOWAN SINGH, AR-JAN SINGH, PARTAB SINGH, ASA SINGH, SAPURAN SINGH, SOBA SINGH, SHAM SINGH, VIRYAN SINGH, SOHN SINGH, NARON SINGH, and GULAM NABI, all of whom are aliens under orders of deportation signed and issued by the Honorable Acting Secretary of Labor, dated October 10th, 1913, after a due and proper consideration of the record in the case of each of said aliens by the said Acting Secretary of Labor. [230]

I.

As to paragraph 3 of the petition, respondent denies that said BHAGAT SINGH, and said eleven other aliens are *bona fide* domiciled residents, inhabitants and denizens of the United States of America; admits that they were born in India and are subjects of Great Britain; admits that they came from the Republic of China to an insular possession of the United States, namely, the Philippine Islands, and were admitted thereto at the port of Manila, but denies that they were admitted after due inspection by Immigration officers and thereupon became and ever since have been and now are lawfully in the United States of America; admits that upon their arrival at Manila they paid the head tax required by the Immigration laws and rules.

II.

As to paragraph 5 of the petition, respondent admits that said Bhagat Singh and the said eleven other aliens signified to the Insular Collector of Customs

at Manila an intention to go to the continent, and were furnished with certificates (Form 546-P. I.) as evidence of their entry at an insular port.

III.

As to paragraph 6 of the petition, respondent admits that said Bhagat Singh and the said eleven other aliens sailed from the port of Manila as passengers on the steamship "Persia" to the port of San Francisco, but denies that any of said aliens had ever acquired a residence or a domicile in any part of the territory of the United States that they could have taken up or continued as denizens of the United States, by said sailing from the port of Manila to the port of San Francisco. [231]

IV.

As to paragraph 7 of the petition, respondent denies that the said Bhagat Singh, or any of said eleven other aliens were unlawfully imprisoned, detained, confined or restrained of their liberty by respondent; admits that they were about to be deported to India from the United States and from the State of California when the said petition was filed; denies that such contemplated deportation would have been from their domicile and would have deprived any of them of a lawful residence, or of any privilege or immunity whatsoever.

V.

As to paragraph 8 of the petition, respondent admits that said Bhagat Singh and said eleven other aliens were taken into custody on July 29, 1913, by respondent, that the warrant of deportation referred to was issued by the Acting Secretary of Labor, and

that he claims the right to hold in custody and to deport said Bhagat Singh and each of said eleven other aliens under and by virtue of the said warrant of deportation.

Respondent denies that said Bhagat Singh, or any of said eleven other aliens were, prior to the issuance of the said warrant of deportation, or have been at any time, refused or denied a fair hearing in good faith, such as is guaranteed them by the law, by respondent or said Acting Secretary of Labor.

Respondent denies that said warrant of deportation was issued by the Secretary of Labor by and through a manifest abuse of discretion committed by him by law and through errors and mistakes of law, but, on the contrary, alleges that in the record of the case of each said alien [232] upon which the Acting Secretary of Labor made his findings, there existed substantial evidence to support said warrant of deportation, as will appear from the following:

The said record in the case of said alien Bhagat Singh shows that when duly examined under the Immigration laws and rules at Angel Island, California, on August 1st, 1913, said alien claimed:

That he was twenty-two years old, and was born in India, which country he left three years before his said examination; that he first went to Hong Kong, and was there employed as a watchman at a salary of about \$10 gold a month, until a month and a half before his said examination, when he went to Manila (his certificate shows that he arrived at Manila May 18, 1913), because of his having heard of better prospects there; that he was again employed as watchman

at about \$20 gold a month in Manila; that upon hearing of still better prospects he came to the United States, where it was his purpose to engage in any work he could secure; that while he had \$150 gold at the time of his entry at Manila he had only fifty dollars gold at the time he arrived at San Francisco. The record in this case further shows that the alien had been arrested under a warrant issued on July 30, 1913, by the Acting Secretary of Labor charging him with being an alien who was likely to become a public charge at the time of his entry into the United States; and, in addition, as a circumstance, that he was an alien of the Hindoo race; that there existed in the United States, and particularly in the State of California, in which community affidavits filed on behalf of the alien stated that he could secure employment, a prejudice and antipathy against members of that race; and that the specific causes that had led up to and created the said prejudice and antipathy, wherefrom it [233] had been found that aliens of the said race when associated with circumstances with which this alien Bhagat Singh in his aforesaid claims alleged that he was surrounded, were likely to become public charges in the United States.

The said record in the case of said alien Sowan Singh shows that when duly examined under Immigration laws and rules at Angel Island, California, on August 1st, 1913, said alien claimed:

That he was twenty-five years old, married and born in India, where his wife was living; that he left his native land about a year before his said examination, going first to Hong Kong, where he was em-

ployed as a watchman at about seven and a half or eight dollars gold a month; that from Hong Kong he went Sinduca (?), in British North Borneo, from where he went to Segon (?), French Indo-China; that upon hearing that he could get better employment in Manila he went there about four and a half or five months before his said examination (his certificate shows that he arrived in the Philippine Islands March 11, 1913), while in the Philippine Islands he peddled cloth from door to door, making from fifteen to twenty-two dollars and fifty cents gold a month; that he was then informed that he could get still better employment, and could make a better income in the United States; that because of this he came here, intending to work as a farm laborer if he could not go into business for himself; that while he had from fifty to seventy-five dollars gold at the time of his entry at Manila, he had only fifty dollars gold at the time of his arrival at San Francisco; that he had some land, and from five hundred to one thousand rupes in his own country; that he had no documentary evidence to show that he possessed this money, alleging that most of it was buried and [234] not in any bank; that he knew nothing of any bond having been furnished in the Philippine Islands conditioned that he would not become a public charge. He produced no documentary or other evidence showing his ownership of, or interest in any land. The said record further shows that this alien was landed at Manila as aforesaid under a bond in the sum of two hundred and fifty dollars conditioned that he would not become a public charge

in the Philippine Islands; that on his arrival as aforesaid at San Francisco, he was examined by the United States Medical Examiner of aliens and found to be afflicted with ucinariasis (hookworm), a dangerous, contagious disease; that he was arrested under a warrant issued on July 30, 1913, by the Acting Secretary of Labor charging him with being an alien who was likely to become a public charge at the time of his entry into the United States; and, in addition, as a circumstance, that he was an alien of the Hindoo race; that there existed in the United States, and particularly in the State of California, in which community affidavits filed on behalf of the alien stated that he could secure employment, a prejudice and antipathy against members of that race; and that the specific causes that had led up to and created the said prejudice and antipathy, wherefrom it had been found that aliens of the said race when associated with circumstances with which this alien Sowan Singh in his aforesaid claims alleged that he was surrounded, were likely to become public charges in the United States.

That said record in the case of said alien Arjan Singh shows that when duly examined under the Immigration laws and rules at Angel Island, California, on July 31st, 1913, said alien claimed:

That he was twenty-five years old, married, and was born in India, where his wife lived; that he left [235] India, where his occupation was that of soldier, four or five months before his said examination, going to Hong Kong, where he stayed twenty days, and from which place he went to Manila (his

certificate showed that he arrived at Manila on June 9, 1913), where he lived one month, and where his occupation was that of peddler of clothes; that while in Manila he made about eight dollars and a half gold; that from Manila he came to the United States because he heard that this was a better country, and that there were no restrictions upon people entering it; that while he had about one hundred and fifty dollars gold when he entered at Manila, he had only about fifty dollars gold when he arrived at San Francisco; that he could do farming or any kind of work, but intended to engage in some work or business of his own; that he knew nothing of a bond being furnished at the time of his entry at Manila conditioned that he would not become a public charge. The said record further shows that he was admitted at Manila under a bond in the sum of two hundred and fifty dollars conditioned that he would not become a public charge in the Philippine Islands; and that upon his said arrival at San Francisco he was certified by the United States Medical Examiner of Aliens as being afflicted with arrythima (irregular heart action), affecting his ability to earn a living; that he was arrested under a warrant issued on July 30, 1913, by the Acting Secretary of Labor, charging him with being an alien who was likely to become a public charge at the time of his entry into the United States, and in addition, as a circumstance, that he was an alien of the Hindoo race; that there existed in the United States and particularly in the State of California, in which community affidavits filed on behalf of the alien stated that he could secure employment,

a prejudice and antipathy against members of that race; and that the specific causes that [236] had led up to, and created the said prejudice and antipathy, wherefrom it had been found that aliens of the said race when associated with circumstances with which this alien Arjan Singh in his aforesaid claims alleged that he was surrounded, were likely to become public charges in the United States.

The said record in the case of said alien, Partab Singh, shows that when duly examined under the Immigration laws and rules at Angel Island, California, on July 31st, 1913, said alien claimed:

That he was 33 years old, married, born in India where he had a wife and one child living; that in his own country he was a farmer, and owned land there; that from India he went to Shanghai, where he was connected with the police force; that from Shanghai he went to Nagasaki, where he stayed three days, doing nothing; that from Nagasaki he went to Manila, because he knew that Manila was a better place to go to for work or business (his certificate shows that he arrived in Manila, June 20, 1913); that he stayed in Manila fifteen days, where he followed the occupation of peddler, making twenty or twenty-five dollars gold there (when asked whether he intended to come to the United States at the time he went to Manila) that "I had no firm intention but I thought if I could go from Manila to the United States I might go"; that while he had about two hundred dollars gold when he entered Manila, he had only sixty-three dollars gold when he arrived at San Francisco; that he had four hundred or five hundred

dollars more in Shanghai, and in his own country; that he intended to engage in business in the United States, but would work for others if necessary; that his uncle's son, whose address he did not know, was [237] in Portland. No documentary or other evidence whatsoever was produced to substantiate the claim of this alien that he owned land or money in India, or Shanghai, or in any other place. The record in this case further shows that the alien had been arrested under a warrant issued on July 30, 1913, by the Acting Secretary of Labor charging him with being an alien who was likely to become a public charge at the time of his entry into the United States; and, in addition, as a circumstance, that he was an alien of the Hindoo race; that there existed in the United States, and particularly in the State of California, in which community affidavits filed on behalf of the alien stated that he could secure employment, a prejudice and antipathy against members of that race; and that the specific causes that had led up to and created the said prejudice and antipathy, wherefrom it had been found that aliens of the said race when associated with circumstances with which this alien Partab Singh in his aforesaid claims alleged that he was surrounded, were likely to become public charges in the United States.

The said record in the case of said alien, Asa Singh, shows that when duly examined under the Immigration laws and rules at Angel Island, California, on July 31st, 1913, said alien claimed:

That he was thirty years old, married, and was born in India where he had a wife and child living;

that he owned land in India, worth about one thousand dollars gold, and was a farmer there; that from there he went to Hong Kong, where he stayed three months, and where he was employed as a watchman for about six dollars gold a month; that from Hong Kong he went to Manila (his certificate shows that he arrived at Manila on May 30, 1913), where he stayed a month and a half, and where he was engaged in peddling clothes, making about twenty-five or [238] thirty dollars gold; that at the time of his leaving Hong Kong for Manila he intended to come to the mainland of the United States; that while he had about one hundred and fifty dollars gold when he arrived at Manila, he had only fifty dollars gold when he arrived at San Francisco; that he could raise from seven hundred and fifty to one thousand dollars gold in his native country; that he would be a farmer in the United States, or do any work that he could get; that he did not understand whether a bond was offered for his release at Manila, conditioned that he would not become a public charge. No documentary evidence or evidence of any kind was produced to corroborate the claim of this alien that he owned land or money, other than the fifty dollars gold that he brought with him, in India or elsewhere. The record in this case further shows that the alien had been arrested under a warrant issued on June 30, 1913, by the Acting Secretary of Labor, charging him with being an alien who was likely to become a public charge at the time of his entry into the United States; that he was admitted at Manila under a bond in the sum of two hundred and fifty dollars condi-

tioned that he would not become a public charge; that upon his arrival at San Francisco he was found by the United States Medical Examiner of aliens to be afflicted with ucinariasis (hookworm), a dangerous, contagious disease; and in addition as a circumstance, that he was an alien of the Hindoo race; that there existed in the United States, and particularly in the State of California, in which community affidavits filed on behalf of the alien stated that he could secure employment, a prejudice and antipathy against members of that race; and that the specific causes that had led up to and created the said prejudice and antipathy, wherefrom it had been found that aliens of the said race when [239] associated with circumstances with which this alien Asa Singh in his aforesaid claims alleged that he was surrounded, were likely to become public charges in the United States.

The said record in the case of said Sapuran Singh shows that when duly examined under the Immigration laws and rules at Angel Island, California, on July 31st, 1913, said alien claimed:

That he was twenty-two years old, born in India, where he had been employed in farming on his father's land; that he left his native country about six years before his said examination, going to Hong Kong, where he was employed at a salary of about nine dollars gold a month as a night watchman in an officers' club; that from Hong Kong he went to Nagasaki, where "there was nothing doing"; that therefrom he went to Manila (his certificate shows that he arrived at Manila on May 30, 1913), where

he had heard opportunities were better, and where he stayed about a month, following the occupation of peddler, and making about thirty dollars gold; that when he went to Manila it was his intention to become a merchant there; that five or ten days after arriving at Manila he inquired about coming to the United States, and came to the United States because he was told that prospects there were better than in Manila; that he had about sixty-six dollars gold when he landed at Hong Kong (which was six years before), one hundred and twenty-five dollars gold when he landed at Manila, and fifty dollars gold when he arrived at San Francisco; that while in the United States he intended to be a peddler of clothes or a farmer; that he was not coming to join anyone in the United States. The record in the case of this alien further shows that he had been arrested on July 30, 1913, by the Acting Secretary of Labor [240] charging him with being an alien who was likely to become a public charge at the time of his entry into the United States; and, in addition, as a circumstance, that he was an alien of the Hindoo race; that there existed in the United States, and particularly in the State of California, in which community affidavits filed on behalf of the alien stated that he could secure employment, a prejudice and antipathy against members of that race; and that the specific causes that had led up to and created the said prejudice and antipathy, wherefrom it had been found that aliens of the said race when associated with circumstances with which this alien Sapuran Singh in his aforesaid claims alleged that he was sur-

rounded were likely to become public charges in the United States.

The said record in the case of said Soba Singh shows that when duly examined under the Immigration laws and rules at Angel Island, California, on July 31, 1913, the said alien claimed:

That he was twenty-three years old, married, born in India, where he had a wife and one child; that he left his native country about two years before his said examination, going to Shanghai, where he stayed two years, being employed there as a watchman at about ten dollars gold a month; that from Shanghai he went to Manila (his certificate shows that he arrived at Manila on May 30, 1913), where he stayed one month and three days, and where he was engaged for three weeks in peddling clothes, making thereby about thirty dollars gold; that while in Manila, being in American territory, and thinking that he would like to see this country, he thought that he might just as well come here, since he heard that conditions were better here than in the Philippine Islands; that while he had [241] about one hundred dollars gold when he entered Manila, he had only about fifty dollars gold on his arrival at San Francisco; that while in this country he would do agricultural or any kind of work that he could get. The record in this case further shows that the alien had been arrested under a warrant issued on July 30, 1913, by the Acting Secretary of Labor, charging him with being an alien who was likely to become a public charge at the time of his entry into the United States; and, in addition, as a circum-

stance, that he was an alien of the Hindoo race; that there existed in the United States, and particularly in the State of California, in which community affidavits filed on behalf of the alien stated that he could secure employment, a prejudice and antipathy against members of that race; and that the specific causes that had led up to and created the said prejudice and antipathy, wherefrom it had been found that aliens of the said race when associated with circumstances with which this alien Soba Singh in his aforesaid claims alleged that he was surrounded, were likely to become public charges in the United States.

The said record in the case of said alien, Sham Singh, shows that when duly examined under the Immigration laws and rules at Angel Island, California, on August 1st, 1913, said alien claimed:

That he was thirty-five years old, a widower, born in India, where he had one child living; that he left his native land about two years before his said examination, first going to Hong Kong, then to Gooton, China, then to Nagasaki, and then to Manila, where he arrived about the preceding March (his certificate shows that he arrived at Manila, April 4, 1913); that in India he was a farmer on his own land; that in Hong Kong he was employed as a watchman at about nine dollars gold a month; that in [242] Nagasaki, where he did nothing, he stayed a month; that his object in going to Manila was to "do some business"; that in Manila he was a peddler of Japanese silk goods and handkerchiefs, having no shop, and making an average of fifteen to twenty dollars

gold a month; that he did not bother to look for employment in Manila; that in Manila he was informed that the United States was a good country and so came here to "try his luck"; that he had about one hundred and fifty dollars gold when he arrived at Manila, but had only about fifty dollars gold on his arrival at San Francisco; that in the United States he might do farming or "any other business"; that he had more money at home, and could get one thousand dollars in the currency of his own country if he wanted it. No documentary evidence was produced to show that he had land or money other than the fifty dollars he brought with him, in India or elsewhere. The record in this case further shows that the alien had been arrested under a warrant issued on July 30, 1913, by the Acting Secretary of Labor charging him with being an alien who was likely to become a public charge at the time of his entry into the United States; and, in addition, as a circumstance, that he was an alien of the Hindoo race; that there existed in the United States, and particularly in the State of California, in which community affidavits filed on behalf of the alien stated that he could secure employment, a prejudice and antipathy against members of that race; and that the specific causes that had led up to and created the said prejudice and antipathy, wherefrom it had been found that aliens of the said race when associated with circumstances with which this alien Sham Singh in his aforesaid claims alleged that he was surrounded were likely to become public charges in the United States. [243]

The said record in the case of said alien, Viryan Singh, shows that when duly examined under the Immigration laws and rules at Angel Island, California, on August 1st, 1913, said alien claimed:

That he was thirty-six years old, married, and was born in India, where his wife was living; that he left India six years before his said examination, going to Shanghai, and then to Manila, eight months before his said examination (his certificate shows that he arrived at Manila on October 22, 1912); that in Shanghai he was employed as a watchman for ten dollars gold a month; that in Manila he was also employed as a watchman at twenty dollars gold a month; that he came to San Francisco because he had learned that this was a better country than the Philippine Islands; that he had about one hundred dollars gold when he arrived at Manila; that while in the United States he preferred to do farming, or to conduct an independent business, but would accept any occupation he could secure if necessary; and when he entered the Philippine Islands at Manila he gave some Englishman about thirty dollars gold but did not know what it was for. The record in this case further shows that the alien had been arrested under a warrant issued on July 30, 1913, by the Acting Secretary of Labor, charging him with being an alien who was likely to become a public charge at the time of his entry into the United States; that at the time of his landing at Manila there was furnished for him a bond in the sum of two hundred and fifty dollars that he would not become a public charge; and, in addition, as a circum-

stance, that he was an alien of the Hindoo race; that there existed in the United States, and particularly in the State of California, in which community affidavits [244] filed on behalf of the alien stated that he could secure employment, a prejudice and antipathy against members of that race; and that the specific causes that had led up to and created the said prejudice and antipathy, wherefrom it had been found that aliens of the said race, when associated with circumstances with which this alien Viryan Singh in his aforesaid claims alleged that he was surrounded, were likely to become public charges in the United States.

The record in the case of said alien, Sohn Singh, shows that when duly examined under the Immigration laws and rules at Angel Island, California, on August 1st, 1913, said alien claimed:

That he was twenty-five years old, and born in India, which country he left about three years before his said examination; that in India he had been a farmer and owned land; that from India he first went to Shanghai, where he lived for three years, then going to Manila, where he lived fifteen days, before embarking for the United States (his certificate shows that he arrived at Manila on June 20, 1913); that in Shanghai he was a watchman for a Chinese firm; receiving about ten dollars a month; that before going to Manila he had heard that if he went there he could gain entrance to this country easier; that as a matter of fact he intended to come to the United States (this country) at the time he went to Manila; that while he had about one hun-

dred and seventy-five dollars gold when he entered Manila, he had only fifty dollars gold when he arrived at San Francisco; that he intended to "do some business" when he went to Manila; that he tried to get work there, but could not; that he intended to do farm work in the United States; that he had no relatives in [245] this country; that he had about fifty dollars gold in Shanghai, that he was not aware that a bond was given for him at Manila conditioned that he would not become a public charge, although "they told me these things." No documentary or other evidence was produced to corroborate alien's statement that he had any money except the fifty dollars he brought with him, in Shanghai or elsewhere, or that any further sum was available to him. The record in this case further shows that this alien was landed at Manila as aforesaid under a bond in the sum of two hundred and fifty dollars conditioned that he would not become a public charge in the Philippine Islands; that on his arrival as aforesaid at San Francisco, he was examined by the United States Medical Examiner of aliens and found to be afflicted with *ucinariasis* (hookworm), a dangerous contagious disease; that he was arrested under a warrant issued on July 30th, 1913, by the Acting Secretary of Labor charging him with being an alien who was likely to become a public charge at the time of his entry into the United States; and, in addition, as a circumstance, that he was an alien of the Hindoo race; that there existed in the United States, and particularly in the State of California, in which community affidavits filed on be-

half of the alien stated that he could secure employment, a prejudice and antipathy against members of that race; and that the specific causes that had led up to and created the said prejudice and antipathy, wherefrom it had been found that aliens of the said race when associated with circumstances with which this alien Sohn Singh in his aforesaid claims alleged that he was surrounded, were likely to become public charges in the United States.

The said record in the case of said alien, Naron Singh, shows that when duly examined under the Immigration [246] laws and rules at Angel Island, California, on July 31, 1913, said alien claimed:

That he was thirty-two years old, married, and born in India where his wife was living; that he left India four years before his said examination, going first to Shanghai, where he lived for four years, then to Nagasaki, where he stayed twelve days, and then to Manila, where he stayed about two weeks before embarking for this country (his certificate shows that he arrived at Manila on June 20, 1913); that at Shanghai he was employed as a watchman for about eleven dollars gold a month; that at Manila he sought employment, but could not get it, and was just about to start a business when he heard good accounts of the United States, and made up his mind to come here; that while he had about two hundred dollars gold at the time he arrived at Manila, he had only fifty dollars gold when he arrived at San Francisco; that he had about one hundred dollars gold in his own country. No documentary evidence

was produced to show that he had any money other than the fifty dollars gold that he brought with him or that any other money was available to him. The record in this case further shows that the alien had been arrested under a warrant issued on July 30, 1913, by the Acting Secretary of Labor charging him with being an alien who was likely to become a public charge at the time of his entry into the United States; and, in addition, as a circumstance, that he was an alien of the Hindoo race; that there existed in the United States, and particularly in the State of California, in which community affidavits filed on behalf of the alien stated that he could secure employment, a prejudice and antipathy against members of that race; and that the specific causes that had led up to [247] and created the said prejudice and antipathy, wherefrom it had been found that aliens of the said race when associated with circumstances with which this alien, Naron Singh, in his aforesaid claims alleged that he was surrounded, were likely to become public charges in the United States.

The said record in the case of said alien, Gulam Nabi, shows that when duly examined under the Immigration laws and rules at Angel Island, California, on July 31st, 1913, said alien claimed:—

That he was twenty-seven years old, married, and was born in India, where his wife and his one child were living; that he left India five months before his said examination, going first to Hong Kong, then to Nagasaki, and then to Manila where he arrived about a month before (his certificate shows that he

arrived at Manila on June 29th, 1913); that he stopped in Manila only about two or three days; that he had been in the United States before, having come here about seven years ago via Vancouver and having departed from the United States for India a little over two years ago; that it was his intention to resume his occupation as a teamster and laborer at a lumber mill at Aberdeen, Washington; that he had no property in the United States; that he had been farming on his father's land while last in India; that he had tried at Hong Kong to buy a ticket direct to the United States, but was told that he would have to go to Manila before he could secure a ticket for the United States; that he went to Manila with the intention of coming here from there; that he had only forty dollars gold at the time of his said examination. The record in this case further shows that the alien had been arrested under a warrant issued on July 30, 1913, by the Acting Secretary of Labor charging him with being an [248] alien who was likely to become a public charge at the time of his entry into the United States; and, in addition, as a circumstance, that he was an alien of the Hindoo race; that there existed in the United States, and particularly in the State of California, in which community affidavits filed on behalf of the alien stated that he could secure employment, a prejudice and antipathy against members of that race; and that the specific causes that had led up to and created the said prejudice and antipathy, wherefrom it had been found that aliens of the said race when associated with circumstances with which this alien, Gulam

Nabi, in his aforesaid claims alleged that he was surrounded, were likely to become public charges in the United States.

1. As to subdivision 1 of paragraph 8 of the petition, respondent admits all allegations contained therein, except that the warrant of deportation referred to was issued on July 29, 1913, and that it was charged, among other things, in the application referred to for warrant of arrest for said aliens Bhagat Singh, Sowan Singh, Arjan Singh, Partab Singh, Asa Singh, Sapuran Singh, Soba Singh, Viryan Singh, Sohn Singh, Naron Singh, and Gulam Nabi, "That there is a strong prejudice against them"; but, on the contrary, respondent alleges that said warrant of deportation was issued on October 10, 1913, and that said application for warrant for arrest of each of said aliens contained the statement "There exists a strong prejudice against them *in this locality*," and not as alleged in the petition as aforesaid, "That there is a strong prejudice against them."

2. As to subdivision 2 of paragraph 8 of the petition, respondent admits the allegations contained therein, except that respondent denies that in his examination referred to any of said aliens answered to the [249] best of his ability all of the questions that were propounded to him by Inspector R. E. Peabody.

3. As to subdivision 3 of paragraph 8 of the petition, respondent admits that neither said Bhagat Singh, Sowan Singh, Arjan Singh, Partab Singh, Asa Singh, Sapuran Singh, Soba Singh, Sham Singh,

Viryan Singh, Sohn Singh, Naron Singh, or Gulam Nabi, was informed of the charges or allegations made against him, or of the issuance of the warrant for his arrest, until the conclusion of his examination; but respondent alleges that this was, in the case of each of said aliens, in accordance with rule 22, subdivision 4 of the Immigration rules, which provides that the alien shall be allowed to inspect the warrant of arrest and all evidence on which it is issued during the course of the hearing.

4. As to subdivision 4 of paragraph 8 of the petition, respondent admits the allegations contained therein, and further alleges that each of said aliens was examined separately and without reference to the cases of the other said aliens, or to the case of any of the other said aliens, and that all such evidence as was at any time offered in the case of each or any of the said aliens, or in the cases of all of the said aliens, was taken and received, and that full opportunity was given each, any and all said aliens, and his and their attorneys, to offer or submit any evidence he or they desired.

5. As to subdivision 5 of paragraph 8 of the petition, respondent admits the allegations contained therein, and further alleges that the affidavits referred to were filed in behalf of the said aliens collectively; and that said affidavits were in effect declarations concerning Hindoos generally as a people or race, and did not refer to the said aliens in whose behalf this petition was filed individually, but treated them generally as [250] members of the Hindoo people or race.

6. As to subdivision 6 of paragraph 8 of the petition, respondent admits the allegations contained, therein, except (1) that respondent said at the time or stage of the proceedings in the cases referred to in the petition that "the case would be at once sent to the Secretary of Labor for decision and judgment, and that no further evidence and no further hearing or testimony would be introduced, held or heard on one side or the other"; and (2) that at the said time or stage of the proceedings in the cases there was no evidence to support the charges that these aliens would ever become public charges, or that they were or ever would be likely to become public charges. These allegations respondent denies, and as to (2) alleges that there was substantial evidence that each such alien was a person likely to become a public charge at the time of his entry into the United States, as charged in the said warrant of arrest.

7. As to subdivision 7 of paragraph 8 of the petition, respondent denies the allegations contained therein.

8. As to subdivision 8 of paragraph 8 of the petition, respondent denies the allegations contained therein, except (1) that certain affidavits, interviews, and letters were placed in the records of the cases of said aliens by the Government, and (2) that no opportunity was given any of the said aliens or their attorneys to cross-examine the persons who made the affidavits, gave the interviews, or wrote the letters referred to. Respondent alleged (1) that these affidavits, interviews and letters were introduced in the records of the cases of the said aliens by the Govern-

ment because of the previous introduction therein by the said aliens of the affidavits referred to in subdivision 5 of paragraph 8 of the [251] petition, and referred to in subdivision 5, paragraph V of this Return, and for the purpose of *rebutting* the general and circumstantial allegations contained in the last mentioned affidavits with evidence of a like general circumstantial nature; and respondent further alleges (2) that no opportunity contemplated by the Immigration laws and rules to cross-examine any persons was denied any of the said aliens or their attorneys.

9. As to subdivision 9 of paragraph 8 of the petition, respondent admits that after introducing into the records of the said aliens the before mentioned affidavits, interviews and letters, the respondent invited a counter-showing and additional brief on behalf of any or all of said aliens, but denies that said aliens and their attorneys "filed for record a respectful, but earnest protest against the procedure adopted by the Department of Labor in reopening of the record"; but, on the contrary, respondent alleges, that on receipt of respondent's letter dated September 25th, 1913, notifying one of the said alien's attorneys that additional evidence—meaning the said affidavits, interviews, letters, and the newspaper clippings to be referred to hereafter—had been added to the records in the cases of the said aliens by the Government, and that said attorney was entitled to inspect and copy the same as well as to pursue such action in view of the same as he deemed proper in behalf of his clients, the said attorney replied to the said letter of respondent by a letter dated Septem-

ber 27, 1913, thanking respondent for the courtesy of informing him that he would be permitted to inspect the additional evidence, and offer further evidence, but making no complaint or protest whatsoever to the introduction in the record by the Government of the said additional evidence. Respondent further alleges [252] that it was not until some time thereafter, and then only in the final brief submitted by the attorneys in behalf of said aliens, that any protest was made to the introduction of said additional evidence by the Government; and respondent further alleges that accompanying said brief were further affidavits offered in behalf of the said aliens, circumstantial in their nature in that the declarations contained in them referred to Hindoos generally as a people or race, and not to the said aliens Bhagat Singh, Sowan Singh, Arjan Singh, Partab Singh, Asa Singh, Sapuran Singh, Soba Singh, Sham Singh, Viryan Singh, Sohn Singh, Naron Singh and Gulam Nabi individually, which said affidavits were accepted and placed in the records of the cases of the said aliens and submitted to the Department of Labor for consideration and decision.

10. As to subdivision 10 of paragraph 8 of the petition, respondent admits that in forwarding the said records of the cases of the said aliens to the Department of Labor for consideration and decision, he wrote a letter addressed to the Commissioner-General of Immigration, Washington, D. C., in which was expressed his views upon the cases of said aliens, which said letter was, under the practice that obtains in such cases in the Department of Labor, considered

a confidential communication, not subject to inspection by aliens or their attorneys. Respondent further admits that as a part of the said records transmitted to the Department of Labor were a large number of newspaper clippings relative to Hindoos, but states that said newspaper clippings were filed merely as a rebuttal of the aforesaid affidavits filed in behalf of the said aliens. Respondent has in his possession said letter and newspaper clippings and stands ready to produce them should their production be desired.

VI.

As to paragraphs 9, 10 and 11 of the petition, [253] respondent denies the allegations contained therein.

VII.

As to paragraph 12 of the petition, respondent admits that he stands ready under said warrant of deportation to deport each of the said aliens should he be permitted to do so by this Honorable Court; but respondent denies that any or all of the said aliens have exhausted all their rights and remedies before the Department of Labor, in that none of them have ever applied for a reopening or a reconsideration of their cases by the said Department.

WHEREFORE, your respondent prays that a writ of *habeas corpus* do not issue herein, that the

Order to Show Cause be discharged, and that the petition be dismissed.

BENJ. L. MCKINLEY,
United States Attorney,
Attorney for Respondent.

WALTER E. HETTMAN,
Assistant U. S. Attorney,
Of Counsel. [254]

United States of America,
Northern District of California,
City and County of San Francisco,—ss.

Charles D. Mayer, being first duly sworn, deposes and says:

That he is an Immigrant Inspector connected with the Immigration Service for the port of San Francisco, and has been specially directed to appear for, and represent the respondent, Samuel W. Backus, Commissioner of Immigration, in the within entitled matter; that he is familiar with all the facts set forth in the within Return to Order to Show Cause, and knows the contents thereof; that it is impossible for the said Samuel W. Backus to appear in person or to give his attention to said matter; that of affiant's own knowledge, the matters set forth in the Return to Order to Show Cause are true, excepting those matters which are stated on information and belief and that as to those matters, he believes it to be true.

CHARLES D. MAYER.

Subscribed and sworn to before me this 28th day of November, 1913.

[Seal] FRANCIS KRULL,
United States Commissioner, North'n Dist. of California.

Service of the within amended return by copy admitted this first day of December, 1913.

JOHN L. McNAB,
TIMOTHY HEALY,
Attorneys for Petitioner.

[Endorsed]: Filed Dec. 1, 1913. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [255]

(Style of Court, Title, and Number of Cause.)

Return [to Order to Show Cause in Case No. 15,480].

Now comes Samuel W. Backus, Commissioner of Immigration at the Port of San Francisco, by Charles D. Mayer, Immigrant Inspector, and in return to the Order to Show Cause issued by said Court on the petition of Timothy Healy for a writ of *habeas corpus*, respectfully shows that your respondent holds SUNDAR SINGH, NARON SINGH, BISHAN or BISHEN SINGH, FOMAN SINGH, JAGAT or JAGOT SINGH, JAMIT or JAWAT SINGH, MADA RAM or MADO PAN, FERROZ KHAN, MAHBUB or MAHBUT ALI, ADBOO-LAH or ABDULLA KHAN under an order of deportation signed and issued by the Honorable Secretary of Labor and dated the 10th day of October, 1913.

I.

Respondent admits each and every allegation contained in paragraphs 1, 2, 3 and 4 of the Petition, except that in paragraph 4 of the Petition respondent denies that the alien Hindoos were *bona fide* residents of the United States, or that they are lawfully

in the United States. [256]

II.

Respondent admits each and every allegation contained in paragraphs 5, 6 and 7 of the Petition, except that in paragraph 7 thereof, respondent denies that the alien Hindoos are unlawfully imprisoned, detained, confined and restrained of their liberty.

III.

Respondent admits each and every allegation contained in the introductory statement of paragraph 8 of the Petition.

Respondent admits each and every allegation of subdivisions 1 and 2 of paragraph 8 of the Petition, but denies that the Hindoos did answer fully and to the best of their ability the questions put to them at the examination before Immigrant Inspector R. E. Peabody on July 30, 1913. "

Respondent admits each and every allegation of subdivision 3 of paragraph 8 of Petition, but alleges further that such action was in accordance with rule 22, subdivision 4, of the Immigration Regulations, which provides that the applicant need not be informed of the charges against him until the end of the preliminary hearing.

Respondent denies each and every allegation of subdivision 4 of paragraph 8 of the Petition.

Respondent admits each and every allegation in subdivision 5 of paragraph 8 of the Petition, but alleges further that with the exception of the affidavit of I. L. Borden and two others, all of the affidavits put in evidence by petitioner were made by Hindoos. Respondent alleges further that affidavits of State

and county officials throughout the State of California were made opposing the admission of Hindoos into the United States. The names and respective offices of some of such affiants are as follows: [257] Paul Sharrenberg, Secretary Treasurer California State Federation of Labor.

John P. McLaughlin, Commissioner of Labor for the State of California.

F. E. Sullivan, General Manager Spreckels Sugar Co.

H. E. Davis, Under-sheriff Monterey Co., Cal.

T. J. Vitaich, Business Agent, San Joaquin County Central Labor Council.

Frank B. Braire, Chief of Police, Stockton, Cal.

Wm. Johnson, Chief of Police, Sacramento, Cal.

Eugene S. Wachhorst, District Attorney, Sacramento, Cal.

George E. Gee, Secretary Yuba County Trades Council.

J. P. Onstott, Farmer, Yuba City, Cal.

Charles J. McCoy, Chief of Police, Marysville, Cal.

P. Brannan, Special Officer, Marysville, Cal.

Harry E. Hyde, Mayor, Marysville, Cal.

J. V. Parks, Justice of the Peace, Oroville, Cal.

Wm. Lewis Kurran, Marshal, Oroville, Cal.

James J. Wood, Theatre Manager, Chico, Cal.

C. E. Daly, Merchant, Chico, Cal.

H. Moir, Postmaster, Chico, Cal.

F. J. Nottelmann, Merchant, Chico, Cal.

J. N. Kelly, Merchant, Chico, Cal.

M. G. Polk, County Surveyor, Butte Co., Cal.

Lon Bond, Attorney, Chico, Cal.

J. L. Barnes, Justice of the Peace, Chico, Cal.

M. H. Goe, Marshal, Chico, Cal.

Wm. Robbie, Mayor, Chico, Cal.

E. C. Hamilton, Manager Sacramento Valley Sugar Co.

Geo. A. Dean, Secy. San Joaquin County Central Labor Council.

H. Hamer, Immigrant Inspector, Bellingham, Wash.

[258]

The consensus of opinion as set forth by these affidavits which are appended to the Petition as exhibits is to the effect that the Hindoo is an undesirable citizen; that he is filthy, unsanitary, immoral, gives the officials continuous trouble by becoming intoxicated and subject to arrest; that he is a disagreeable member of every community because of his uncleanness and offensive order; that he becomes a public nuisance in crowding the sidewalks, street corners, postoffices and other public buildings; that merchants, theatrical managers and business men generally exclude him from their places of business; that the Hindoo is unreliable; that he is a petty thief, nomadic in his habits, will not remain employed in any particular work unless under a strict contract; that his standard of living is of the very lowest and that he does not rear families or permanently establish himself in the country in which he works; that he is a degenerate physically, and generally in a weak and enervated condition, and invariably afflicted with the disease of hookworm; that the Hindoo belongs to the laboring class; that demand for Hindoo labor is very limited, and if desired at all is only

for transient periods, and because of the strong prejudice against him, and the fact that he is continually a public nuisance and a burden to all society, it is deemed by all the affiants above named that he is likely to become a public charge, and that he should be expelled from the country.

Respondent denies each and every allegation in subdivisions 6 and 7 of paragraph 8 of the Petition.

Respondent admits each and every allegation of subdivision 8 of paragraph 8 of the Petition, with the exception that he denies that the affidavits are merely an expression of passion [259] and prejudice culled from persons in various parts of the State of California, but that the affidavits were *bona fide* expressions of opinion of white merchants and officials in possession of experience and influence, and having come in direct contact with Hindoo laborers.

Respondent admits each and every allegation in subdivision 9 of paragraph 8 of the Petition, and especially admits that the petitioner was allowed to file further evidence in the hearing before the Commissioner of Immigration, but respondent denies that any protest was made to such reopening of the case, except in a final brief filed by said petitioner and that in a letter signed by one of the attorneys for petitioner, dated September 27th, 1913, directed to Samuel W. Backus, Commissioner of Immigration at Angel Island, California, the statement was made that the attorneys for the petitioner acquiesced in the reopening of the case for further admission of evidence, and thanked the Commissioner for the courtesy in doing so.

IV.

Respondent denies each and every allegation set forth in paragraph 9 of the Petition, and especially denies that any competent evidence was submitted to the Commissioner of Immigration that the said Hindoos were likely to become public charges.

Respondent admits each and every allegation in subdivision 2 of paragraph 8 of the Petition, with the exception that he denies that the affidavits filed on behalf of respondent were prejudiced, and further denies that the reopening of the case and the record was protested by the attorneys for the alien Hindoos.

V.

Respondent denies each and every allegation set forth in paragraph 10 of the Petition. [260]

VI.

Respondent denies each and every allegation set forth in paragraph 11 of the Petition.

VII.

Respondent admits each and every allegation set forth in paragraph 12 of said Petition.

WHEREFORE, your respondent prays that a writ of *habeas corpus* do not issue herein, that the Order to Show Cause be discharged, and that the Petition be dismissed.

BENJ. L. MCKINLEY,
United States Attorney,
Attorney for Respondent.

WALTER E. HETTMAN,
Assistant U. S. Attorney,
Of Counsel. [261]

United States of America,
Northern District of California,
City and County of San Francisco,—ss.

Charles D. Mayer, being first duly sworn, deposes and says:

That he is an Immigrant Inspector connected with the Immigration Service for the port of San Francisco, and has been specially directed to appear for, and represent the respondent, Samuel W. Backus, Commissioner of Immigration, in the within entitled matter; that he is familiar with all the facts set forth in the within Return to Order to Show Cause, and knows the contents thereof; that it is impossible for the said Samuel W. Backus to appear in person or to give his attention to said matter; that of affiant's own knowledge, the matters set forth in the Return to Order to Show Cause are true, excepting those matters which are stated on information and belief, and that as to those matters, he believes it to be true.

CHARLES D. MAYER.

Subscribed and sworn to before me this 13th day of November, 1913.

[Seal] FRANCIS KRULL,
Deputy Clerk U. S. District Court, Northern District
of California.

Service of the within Return by copy admitted
this 14 day of Nov., 1913.

J. L. McNAB,
Attorney for Petitioner.

[Endorsed]: Filed Nov. 14, 1913. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [262]

(Style of Court, Title and Number of Cause.)

**Amended Return [to Order to Show Cause in Case
No. 15,480].**

Now comes Samuel W. Backus, Commissioner of Immigration at the Port of San Francisco, by Charles D. Mayer, Immigrant Inspector, and in return to the Order to Show Cause issued by said Court on the petition of Timothy Healy for a writ of *habeas corpus*, respectfully shows that your respondent holds SUNDAR or SUNDU SINGH, NARON SINGH, BISHAN or BISHEN SINGH, FOMAN SINGH, JAGAT or JAGOT SINGH, JAMIT or JAWAT SINGH, MADA RAM or MADO PAN, FERROZ KHAN, MAHBUB or MAHBUT ALI, ABDOOLAH or *ADBULLA* KAHN, all of whom are aliens under orders of deportation signed and issued by the Honorable Acting Secretary of Labor, dated October 10th, 1913, after a due and proper consideration of the record in the case of each of said aliens by the said Acting Secretary of Labor. [263]

I.

As to paragraph 3 of the Petition, respondent denies that said SUNDAR or SUNDU SINGH and said nine other aliens are *bona fide* domiciled residents, inhabitants and denizens of the United States of America; admits that they were born in India and are subjects of Great Britain; admits that they came from the Republic of China to an insular pos-

session of the United States, namely, the Philippine Islands, and were admitted thereto at the Port of Manila, but denies that they were admitted after due inspection by Immigration Officers and thereupon became and ever since have been and now are lawfully in the United States of America; admits that upon their arrival at Manila they paid the head tax required by the Immigration Laws and Rules.

II.

As to paragraph 5 of the Petition, respondent admits that said SUNDAR or SUNDU SINGH and the said nine other aliens signified to the Insular Collector of Customs at Manila an intention to go to the continent, and were furnished with certificates (Form 546-P. I.) as evidence of their entry at an insular port.

III.

As to paragraph 6 of the Petition, respondent admits that said SUNDAR or SUNDU SINGH and the said nine other aliens sailed from the port of Manila as passengers on the steamship "Korea" to the Port of San Francisco, but denies that any of said aliens had ever acquired a residence or a domicile in any part of the territory of the United States that they could have taken up or continued as denizens of the United States, by said sailing from the [264] Port of Manila to the Port of San Francisco.

IV.

As to paragraph 7 of the Petition, respondent denies that the said SUNDAR or SUNDU SINGH or any of the said nine other aliens were unlawfully imprisoned, detained, confined, or restrained of their

liberty by respondent; admits that they were about to be deported to India from the United States, and from the State of California, when the said petition was filed; denies that such contemplated deportation would have been from their domicile and would have deprived any of them of a lawful residence, or of any privilege of immunity whatsoever.

V.

As to paragraph 8 of the Petition, respondent admits that said SUNDAR or SUNDU SINGH and said nine other aliens were taken into custody on August 2d, 1913, by respondent, that the warrant of deportation referred to was issued by the Acting Secretary of Labor, and that he claims the right to hold in custody and to deport said SUNDAR or SUNDU SINGH and each of said nine other aliens under and by virtue of the said warrant of deportation.

Respondent denies that said SUNDAR or SUNDU SINGH or any of said nine other aliens were, prior to the issuance of said warrant of deportation, or have been at any time, refused or denied a fair hearing in good faith, such as is guaranteed them by the law, by respondent or said Acting Secretary of Labor.

Respondent denies that said warrant of deportation was issued by the Secretary of Labor by and through a manifest abuse of discretion committed by him by law and through errors and mistakes of law, but, on the contrary [265] alleges that in the record of the case of each said alien upon which the Acting Secretary of Labor made his findings, there existed substantial evidence to support said warrant

of deportation, as will appear from the following:

1. The said record in the case of said alien SUN-DAR or SUNDU SINGH shows that when duly examined under the Immigration laws and rules at Angel Island, California, on August 5, 1913, the said alien claimed:

That he was 31 years old, born in India, which country he left over four years before his said examination, when he first went to Shanghai, where he stayed about four years, and then went to Manila (his certificate showed that he arrived at Manila June 20, 1913), where he stayed 17 days before coming to San Francisco, that he was employed for four years as a policeman in the British Consulate at Shanghai; receiving for his services about \$12.50 gold a month; that for a short time after quitting his said position as policeman, he conducted a store in Shanghai, in which he invested \$300 gold; that he went to Manila because he thought he could do better there by opening a shop; that he stayed in Manila only 17 days during which time he looked for a business opening, but found too much competition, and so decided to come to this country, having heard that America was a very good place; that he intended to look for a business opening in this country, but if he should not find one he would perform any kind of work; that he had \$300 gold when he arrived at Manila, and had only \$163 gold when he arrived at San Francisco. This alien presented at his said examination a passport issued by the British Consulate at Manila on July 3, 1913; and also presented a certificate of a doctor, without date (not a physician of

the United States Government), to the effect that said doctor had microscopically [266] examined the face of one Sundar Singh, age 31, sailing on the S.S. "Korea" voyage 52 from Hongkong, and did not find any ova of hookworm present. The voyage in this case further shows that upon the arrival of said alien at the port of San Francisco as aforesaid he was examined by the United States Medical Examiner of Aliens and found to be afflicted with uncinariases (hookworm), a dangerous contagious disease; that said alien had been arrested under a warrant issued on October 5, 1913, by the Acting Secretary of Labor, charging him with being a member of the excluded classes in that he was a person likely to become a public charge at the time of his entry in the United States; and in addition, as a circumstance, said record further shows that said Sundar Singh was an alien of the Hindoo race; that there existed in the United States, and particularly in the State of California, in which community affidavits filed on behalf of said alien stated that he could secure employment, a prejudice and antipathy against members of that race; and that the specific causes that had led up to and created the said prejudice and antipathy, wherefrom it had been found that aliens of the said race when associated with circumstances with which the alien Sundar Singh in his aforesaid claims alleged that he was surrounded, were likely to become public charges in the United States.

2. The said record in the case of said alien Naron Singh shows that when duly examined under the Immigration laws and rules at Angel Island,

California, on August 5, 1913, the said alien claimed:

That he was 27 years old, married, born in India where his wife lived; that in his native country he was a farmer on his own land; that he left India about three years before his said examination, going first to Shanghai, and then to Manila; that in Shanghai he was a watchman at [267] a hotel at about \$11.50 gold a month; that he went to Manila on June 20, 1912 (his certificate showed that he arrived at Manila on that date); that he was unemployed while in Manila, but was offered a position as night watchman there, which position was very "troublesome" and which he therefore refused to accept; that he first heard about the United States in Manila; that while he had \$165 gold when he arrived in Manila, he had only \$50 gold at the time of his said examination; that he had \$50 gold in Shanghai, but had no evidence to substantiate his statement. Not only did this alien fail to produce any evidence whatsoever in corroboration of his claim that he had \$50 in Shanghai, but he produced no documentary or other evidence of his alleged ownership of land in India. The record in this case further shows that the said alien had been arrested under a warrant issued on October 5, 1913, by the Acting Secretary of Labor, charging him with being a member of the excluded classes in that he was a person likely to become a public charge at the time of his entry in the United States; and, in addition, as a circumstance, said record further shows that said Naron Singh was an alien of the Hindoo race; that there existed in the United States, and particularly in the State of Cali-

fornia, in which community affidavits filed on behalf of said alien stated that he could secure employment, a prejudice and antipathy against members of that race; and that the specific causes that had led up to and created the said prejudice and antipathy, wherefrom it had been found that aliens of the said race when associated with circumstances with which this alien Naron Singh in his aforesaid claims alleged that he was surrounded, were likely to become public charges in the United States. [268]

3. The said record in the case of said alien Bishan Singh shows that when duly examined under the Immigration laws and rules at Angel Island, California, on August 5, 1913, the said alien claimed:

That he was 27 years old, married, and was born in India, where his wife lived; that he was a farmer and then a soldier while in India; that from India he went to Shanghai, where he was employed in the police department for five years, receiving a salary of about \$12.50 gold a month; that he had heard that prospects for better employment were very good in Manila, and therefore went there on June 20, 1913 (his certificate showed that he arrived in Manila on June 20, 1913); that he started to peddle cloth in Manila and was making about a dollar every two days when he was told by the "custodies people" that America was a good country, and that he could be admitted here; that while he had \$250 gold with him at Manila, he had only \$55 gold on his arrival at San Francisco; that his uncle and his brother in Shanghai are holding \$200 gold watch which belongs to him, but that he has no evidence to corroborate

this statement; that he intends to become a farm laborer in the United States. The record in this case further shows that said alien had been arrested under a warrant issued on October 5, 1913, by the Acting Secretary of Labor, charging him with being a member of the excluded classes in that he was a person likely to become a public charge at the time of his entry in the United States; and, in addition, as a circumstance, said record further shows that said Bishan Singh was an alien of the Hindoo race; that there existed in the United States, and particularly [269] in the State of California, in which community affidavits filed on behalf of said alien stated that he could secure employment, a prejudice and antipathy against members of that race; and that the specific causes that had led up to and created the said prejudice and antipathy, wherefrom it had been found that aliens of the said race when associated with circumstances with which this alien Bishan Singh in his aforesaid claims alleged that he was surrounded, were likely to become public charges in the United States.

4. The said record in the case of said alien Foman Singh shows that when duly examined under the Immigration laws and rules at Angel Island, California, on August 5, 1913, the said alien claimed:

That he was 20 years old, and was born in India, which country he left one year and eight months before the said examination, he first going to Shanghai, where he lived for a year and a half after, and then going to Manila; that in Shanghai he was a watchman at about \$11.50 gold a month; that while

in Shanghai he heard that he could get very good employment in Manila, and so went there on June 20, 1913 (his certificate showed that he arrived at Manila on June 20, 1913); that he peddled clothes in Manila, averaging sixty cents to seventy-five cents gold a day profit; that he heard that this was a very good country, and so he decided to come here; that while he had \$175 gold when he arrived at Manila, he had only \$50 gold upon his arrival in San Francisco; that he intended in this country to do farming, gardening, or any [270] kind of work. The record in this case further shows that said alien had been arrested under a warrant issued on October 5, 1913, by the Acting Secretary of Labor, charging him with being a member of the excluded classes in that he was a person likely to become a public charge at the time of his entry in the United States; and, in addition, as a circumstance, said record further shows that said Foman Singh was an alien of the Hindoo race; that there existed in the United States, and particularly in the State of California, in which community affidavits filed on behalf of said alien stated that he could secure employment, a prejudice and antipathy against members of that race; and that the specific causes that had led up to and created the said prejudice and antipathy, wherefrom it had been found that aliens of the said race when associated with circumstances with which this alien Foman Singh in his aforesaid claims alleged that he was surrounded, were likely to become public charges in the United States.

5. The said record in the case of said alien Jagat

Singh shows that when duly examined under the Immigration laws and rules at Angel Island, California, on August 5th, 1913, the said alien claimed:

That he was 29 years old, married, and was born in India, where his wife was living; that he left India over five years before, first going to Shanghai, where he lived five years and three months, and then going to Manila; that he was employed in the Shanghai police department at about \$11 gold a month; that he heard that he could get better employment in Manila, and so went [271] there on June 20, staying fifteen or sixteen days, when he embarked for the United States (his certificate showed that he arrived at Manila on June 20, 1913); that he did nothing in Manila, and did not try to find work there, because he learned that there was a surplusage of field labor there; that he was then told upon inquiring by the "customs people" that he could come to the United States; that while he had \$250 gold when he came to Manila, he had only \$155 gold when he arrived at San Francisco; that he had no other money anywhere; that when he worked he sent all the money he earned to his wife; that his parents were then caring for her; that he would perform any kind of work in the United States that he could get. The record in this case further shows that said alien had been arrested under a warrant issued on October 5, 1913, by the Acting Secretary of Labor, charging him with being a member of the excluded classes in that he was a person likely to become a public charge at the time of his entry in the United States; and, in addition, as a circumstance, said record further

shows that said Jagat Singh was an alien of the Hindoo race; that there existed in the United States, and particularly in the State of California, in which community affidavits filed on behalf of said alien stated that he could secure employment, a prejudice and antipathy against members of that race; and that the specific causes that had led up to and created the said prejudice and antipathy, wherefrom it had been found that aliens of the said race when associated with circumstances with which this alien Jagat Singh in his aforesaid claims alleged that he was surrounded, were likely to become public charges in the United States. [272]

6. The said record in the case of said alien, Jamut or Jawat Singh, shows that when duly examined under the Immigration laws and rules at Angel Island, California, on August 5, 1913, the said alien claimed:

That he was 24 years old, and was born in India, which country he left five years before the said examination, going first to Shanghai, where he stayed five years, and where he was employed as a watchman at \$10 gold a month; that upon hearing that some people made \$20 gold a month in Manila he proceeded there on June 20, 1913 (his certificate showed that he arrived at Manila on June 20, 1913); where he remained fifteen days; that he was unable to find employment at \$20 gold a month in Manila and so, upon hearing that this country was a "great place," he came here; that he understood farming, but if he could not get any farm work to do he would "try to get some business of his own"; that while he had

\$175 gold when he arrived at Manila, he had only \$50 gold on his arrival at San Francisco, which was all the money he had anywhere. The record in this case further shows that the said alien had been arrested under a warrant issued on October 5, 1913, by the Acting Secretary of Labor, charging him with being a member of the excluded classes in that he was a person likely to become a public charge at the time of his entry in the United States; and, in addition, as a circumstance, said record further shows that said Jamut, or Jawat Singh was an alien of the Hindoo race; that there existed in the United States, and particularly in the State of California, in which community affidavits filed on behalf [273] of said alien stated that he could secure employment, a prejudice and antipathy against members of that race; and the specific causes that had led up to and created the said prejudice and antipathy, wherefrom it had been found that aliens of the said race when associated with circumstances with which this alien Jamut or Jawat Singh in his aforesaid claims alleged that he was surrounded, were likely to become public charges in the United States.

7. The said record of the case of said alien Mada Ram shows that when duly examined under the Immigration laws and rules at Angel Island, California, on August 5, 1913, the said alien claimed:

That he was 30 years old, married, and born in India, where he had a wife and two children; that he had kept a grocery and provision shop in India, but left there for Hongkong in search of better business; that he stayed in Hongkong less than a month, where

he was unemployed; that then, on June 20, 1913, he went to Manila (his certificate showed that he arrived at Manila June 9, 1913), where he was engaged for about a month, until his departure for San Francisco, in peddling clothes, at which occupation he made from \$10 to \$20 gold; that he had \$150 gold when he landed at Manila, but had only \$60 gold when he arrived at San Francisco; that he had from 1,000 to 1,500 rupees in his native country, but had no evidence of it; that if permitted to come into the United States he would do laboring work, or whatever work he could get. The record in this case further shows that the said alien had been arrested under a warrant issued on October 5, 1913, [274] by the Acting Secretary of Labor, charging him with being a member of the excluded classes in that he was a person likely to become a public charge at the time of his entry in the United States; and, in addition, as a circumstance, said record further shows that said Mada Ram was an alien of the Hindoo race; that there existed in the United States, and particularly in the State of California, in which community affidavits filed on behalf of said alien stated that he could secure employment, a prejudice and antipathy against members of that race; and that the specific causes that had led up to and created the said prejudice and antipathy, wherefrom it had been found that aliens of the said race when associated with circumstances with which this alien Mada Ram in his aforesaid claims alleged that he was surrounded were likely to become public charges in the United States.

8. The said record in the case of said alien Ferroz Khan shows that when duly examined under the Immigration laws and rules at Angel Island, California, on August 5, 1913, the said alien claimed:

That he was 25 years old, and was born in India, which country he left one year before the said examination, going first to Singapore, where he stayed eight days, doing nothing, and then going to Manila (his certificate showed that he arrived at Manila October 24, 1912); that in India he worked upon his father's farm; that he left India to look for work; that at Manila he was first employed as a day laborer and afterwards as a watchman "in some house," receiving about \$20 gold a month; that upon hearing that this was a good country and that he [275] could enter San Francisco freely he came here; that he had \$233 gold when he arrived at Manila, but had only \$45 gold upon his arrival at San Francisco; that it was his expectation to do farm work in the United States; that he had a brother in Manila who had \$100 gold belonging to him. No evidence whatever was offered to corroborate the statement of this alien that he had \$100 gold belonging to him in Manila. The record in this case further shows that when this alien landed at Manila a bond in the sum of \$250 was furnished, conditioned that he would not become a public charge; that he was arrested under a warrant issued on October 5, 1913, by the Acting Secretary of Labor, charging him with being a member of the excluded classes in that he was a person likely to become a public charge at the time of his entry in the United States; and, in addition, as a circum-

stance, said record further shows that said Ferroz Khan was an alien of the Hindoo race; that there existed in the United States, and particularly in the State of California, in which community affidavits filed on behalf of said alien stated that he could secure employment, a prejudice and antipathy against members of that race; and that the specific causes that had led up to and created the said prejudice and antipathy, wherefrom it had been found that aliens of the said race when associated with circumstances with which this alien Ferroz Khan in his aforesaid claims alleged that he was surrounded, were likely to become public charges in the United States.

9. The said record in the case of said alien Mahbub Ali shows that when duly examined under the Immigration laws and rules at Angel Island, California, on [276] August 12, 1913, the said alien claimed:

That he was 19 years old, and was born in India, which country he left in July, 1912, going first to Singapore, where he stayed four or five days, then to North Borneo, and from North Borneo to Manila on September 13, 1912 (his certificate showed that he was landed at the port of Jolo, Philippine Islands, September 1, 1912); that in his native country he did no work, but attended school, being supported by his father; that he went to Manila "for education"; that the superintendent of the high school at Manila told him to go to America; that "they did not admit him" to any school in the Philippine Islands; that while in Manila the employer of his brother, which brother worked in "some stable" there, "gave him a job to look after some horses as a sort of supervision,"

for which he received no salary, he being in effect an assistant of his brother; that his brother supported him and paid the expenses of his coming to this country; that he had four pounds (about \$20 gold) when he entered the Philippine Islands; that while in Manila his father, who was a grain merchant in India, sent him 150 rupees; that his father had dependent upon him for support two daughters and one other son; that he had no relatives in this country, but a friend of his brother's lived in San Francisco; that he intended to enter the Mission High School in San Francisco; that he would be dependent for support while attending school here upon remittances from his father; that he had no evidence to corroborate his statement that his father would send such remittances; that he had never been in the United States before; that he had no document [277] showing attendance at any school, he having had a certificate which he handed to said superintendent of the high school in Manila, and which the latter had not returned to him, having mislaid the same; that all the money he had upon his arrival at San Francisco was \$45 gold. The record in this case further shows that said alien had been arrested under a warrant, issued on October 5, 1913, by the Acting Secretary of Labor, charging him with being a member of the excluded classes in that he was a person likely to become a public charge at the time of his entry in the United States; and, in addition, as a circumstance, said record further shows that said Mahbub Ali was an alien of the Hindoo race; that there existed in the United States, and particularly

in the State of California, in which community affidavits filed on behalf of said alien stated that he could secure employment, a prejudice and antipathy against members of that race; and that the specific causes that had led up to and created the said prejudice and antipathy, wherefrom it had been found that aliens of the said race when *when* associated with circumstances with which this alien Mahbub Ali in his aforesaid claims alleged that he was surrounded, were likely to become public charges in the United States.

10. The said record in the case of said alien Abdoolah Khan shows that when duly examined under the Immigration laws and rules at Angel Island, California, on August 5, 1913, the said alien claimed: [278]

That he was 35 years old, married, had two children, and was born in India; that he was a farmer in India, owning a farm there; that his hair was gray on account of worry; that he left his native country five months before the said examination, going first to Hongkong where he stayed for two months without employment, and then to Manila, where he stayed fifteen to twenty days (his certificate showed that he arrived at Manila June 19, 1913); that "I came to Hongkong with the original intention of doing some farming or other business, but I could not find anything in Hongkong, so I went to Manila because I heard about good prospects there"; that he heard in Hongkong that prospects were good in Manila; that he did nothing in Manila, having been unable to find employment there; that he came to this country be-

cause he heard that this was a good country and that he could get some work here; that he had \$50 gold when he arrived at Manila; that his expenses in coming here were paid by his brother in Manila; that he had \$50 on his arrival in San Francisco; that he expected to seek work as a laborer in this country. This alien produces no documentary or other evidence in support of his claim that he owned a farm in India. The record in this case further shows that the said alien was landed at Manila under a bond in the sum of \$250 conditioned that he would not become a public charge in the Philippine Islands; that said alien had been arrested under a warrant issued on October 5, 1913, by the Acting Secretary of Labor, charging him with being a member of the excluded classes in that he was a person likely to become a public charge at the time of his entry in the United States; and, in addition, as a circumstance, said record further shows [279] that said Abdoolah Khan was an alien of the Hindoo race; that there existed in the United States, and particularly in the State of California, in which community affidavits filed on behalf of said alien stated that he could secure employment, a prejudice and antipathy against members of that race; and that the specific causes that had led up to and created the said prejudice and antipathy, wherefrom it had been found that aliens of the said race when associated with circumstances with which this alien Abdoolah Khan in his aforesaid claims alleged that he was surrounded, were likely to become public charges in the United States.

1. As to subdivision 1 of paragraph 8 of the Petition, respondent admits all allegations contained therein, except that the warrant of deportation referred to was issued on August 5, 1913, and that it was charged, among other things, in the application referred to for warrant of arrest of said aliens Sundar or Sandu Singh, Naron Singh, Bishan or Bis-hen Singh, Foman Singh, Jagat or Jagot Singh, Jamit or Jawat Singh, Mada Ram or Mado Pan, Ferroz Khan, and Abdoolah or Abdulla Khan "that there is a strong prejudice against them"; but, on the contrary, respondent alleges that said warrant of deportation was issued on October 5, 1913, and that said application for warrant for arrest of each of said aliens contained the statement, "There exists a strong prejudice against them *in this locality*," and not as alleged in the petition as aforesaid, "that there is a strong prejudice against them." [280]

2. As to subdivision 2 of paragraph 8 of the Petition respondent admits the allegations contained therein, except that respondent denies that in his examination referred to, any of said aliens answered to the best of his ability all of the questions that were propounded to him by Inspector R. E. Peabody.

3. As to subdivision 3 of paragraph 8 of the Petition, respondent admits that neither said Sundar or Sundu Singh, nor any of the other nine aliens hereinbefore mentioned, was informed of the charges or allegations made against him, or of the issuance of the warrant for his arrest, until the conclusion of his examination; but respondent alleges that this was, in the case of each of said aliens, in accordance with

rule 22, subdivision 4 of the Immigration rules, which provides that the alien shall be allowed to inspect the warrant of arrest and all evidence *evidence* on which it is issued during the course of the hearing.

4. As to subdivision 4 and 5 of paragraph 8 of the Petition, respondent admits the allegations contained therein, and further alleges that each of said aliens was examined separately and without reference to the cases of the other said aliens, or to the case of any of the other said aliens, and that all such evidence as was at any time offered in the case of each or any of the said aliens, or in the cases of all of the said aliens, was taken and received, and that full opportunity was given each, any and all said aliens, and his and their attorneys, to offer or submit any evidence he or they desired.

5. As to subdivision 6 of paragraph 8 of the [281] Petition, respondent admits the allegations contained therein, and further alleges that the affidavits referred to were filed in behalf of the said aliens collectively; and that said affidavits were in effect declarations concerning Hindoos generally as a people or race, and did not refer to the said aliens in whose behalf this petition was filed individually, but treated them generally as members of the Hindoo people or race.

6. As to subdivision 7 of paragraph 8 of the Petition, respondent admits the allegations contained therein, except (1) that respondent said at the time or stage of the proceedings in the cases referred to in the petition that "the case would be at once sent to the Secretary of Labor for decision and judgment,

and that no further evidence and no further hearing or testimony would be introduced, held or heard on one side or the other"; and (2) that at the said time or stage of the proceedings in the cases there was no evidence to support the charges that these aliens would ever become public charges, or that they were or ever would be likely to become public charges. These allegations respondent denies, and as to (2) alleges that there was substantial evidence that each such alien was a person likely to become a public charge at the time of his entry into the United States, as charged in the said warrant of arrest.

7. As to subdivision 8 of paragraph 8 of the Petition, respondent denies the allegations contained therein.

8. As to subdivision 9 of paragraph 8 of the Petition, respondent denies the allegations contained therein, [282] except (1), that certain affidavits, interviews, and letters were placed in the records of the cases of said aliens by the Government, and (2) that no opportunity was given any of the said aliens or their attorneys to cross-examine the persons who made the affidavits, gave the interviews, or wrote the letters referred to. Respondent alleges (1) that these affidavits, interviews and letters were introduced in the records of the cases of the said aliens by the Government because of the previous introduction therein by the said aliens of the affidavits referred to in subdivision 6 of paragraph 8 of the petition, and referred to in subdivision 5 of paragraph V of this Return, and for the purpose of *rebutting* the general and circumstantial allegations contained in

the last mentioned affidavits with evidence of a like general circumstantial nature; and respondent further alleges (2) that no opportunity contemplated by the Immigration laws and rules to cross-examine any persons was denied any of the said aliens or their attorneys.

9. As to subdivision 9 of paragraph 8 of the Petition, respondent admits that after introducing into the records of the said aliens the before mentioned affidavits, interviews and letters, the respondent invited a counter-showing and additional brief on behalf of any or all of said aliens, but denies that said aliens and their attorneys "filed for record a respectful, but earnest protest" against the procedure adopted by the Department of Labor in reopening of the record; but, on the contrary, respondent alleges that on receipt of respondent's letter dated September 25th, 1913, notifying one of the said alien's [283] attorneys that additional evidence—meaning the said affidavits, interviews, letters and the newspaper clippings to be referred to hereafter—had been added to the records in the cases of the said aliens by the Government, and that said attorney was entitled to inspect and copy the same as well as to pursue such action in view of the same as he deemed proper in behalf of his clients, the said attorney replied to the said letter of respondent by a letter dated September 27, 1913, thanking respondent for the courtesy of informing him that he would be permitted to inspect the additional evidence, and offer further evidence, but making no complaint or protest whatsoever to the introduction in the record

by the Government of the said additional evidence. Respondent further alleges that it was not until some time thereafter, and then only in the final brief submitted by the attorneys in behalf of said aliens, that any protest was made to the introduction of said additional evidence by the Government; and respondent further alleges that accompanying said brief were further affidavits, offered in behalf of the said aliens, circumstantial in their nature in that the declarations contained in them referred to Hindoos generally as a people or race, and not to the said aliens, Sundar or Sundu Singh, Naron Singh, Bishan or Bishen Singh, Foman Singh, Jagat or Jagot Singh, Jamit or Jawat Singh, Mada Ram or Mado Pan, Ferroz Khan, Mahbub or Mahbut Ali, Abdoolah or Abdulla Khan individually, which said affidavits were accepted and placed in the records of the cases of the said aliens and submitted to the Department of Labor for consideration and decision. [284]

10. As to subdivision 10 of paragraph 8 of the Petition, respondent admits that in forwarding the said records of the cases of the said aliens to the Department of Labor for consideration and decision, he wrote a letter addressed to the Commissioner-General of Immigration, Washington, D. C., in which was expressed his views upon the cases of said aliens, which said letter was, under the practice that obtains in such cases in the Department of Labor, considered a confidential communication, not subject to inspection by aliens or their attorneys. Respondent further admits that as a part of the said records transmitted to the Department of Labor were a large

number of newspaper clippings relative to Hindoos, but states that said newspaper clippings were filed merely as a rebuttal of the aforesaid affidavits filed in behalf of the said aliens. Respondent has in his possession said letter and newspaper clippings and stands ready to produce them should their production be desired.

VI.

As to paragraphs 9, 10 and 11 of the Petition, respondent denies the allegations contained therein.

VIII.

As to paragraph 12 of the petition, respondent admits that he stands ready under said warrant of deportation to deport each of the said aliens should he be permitted to do so by this Honorable Court; but respondent denies that any or all of the said aliens have exhausted all their rights and remedies before the Department of Labor, in that none of them have ever applied for a reopening [285] or a reconsideration of their cases by the said Department.

WHEREFORE, your respondent prays that a writ of *habeas corpus* do not issue herein, that the Order to Show Cause be discharged, and that the Petition be dismissed.

BENJ. L. MCKINLEY,
United States Attorney,
Attorney for Respondent.

WALTER E. HETTMAN,
Assistant U. S. Attorney,
Of Counsel. [286]

United States of America,
Northern District of California,
City and County of San Francisco,—ss.

Charles D. Mayer, being first duly sworn, deposes and says:

That he is an Immigrant Inspector connected with the Immigration Service for the port of San Francisco, and has been specially directed to appear for, and represent the respondent, Samuel W. Backus, Commissioner of Immigration, in the within-entitled matter; that he is familiar with all the facts set forth in the within Return to Order to Show Cause, and knows the contents thereof; that it is impossible for the said Samuel W. Backus to appear in person or to give his attention to said matter; that of affiant's own knowledge, the matters set forth in the Return to Order to Show Cause are true, excepting those matters which are stated on information and belief, and that as to those matters, he believes it to be true.

CHARLES D. MAYER.

Subscribed and sworn to before me this 28th day of November, 1913.

[Seal] FRANCIS KRULL,
United States Commissioner, North'n Dist. of California.

Service of the within Amended return by copy admitted this first day of December, 1913.

JOHN L. McNAB,
TIMOTHY HEALY,
Attorneys for Petitioner.

[Endorsed]: Filed Dec. 1, 1913. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [287]

(Style of Court, Titles, and Numbers of Causes.)

Opinion and Order Denying [Application for a Writ of Habeas Corpus.]

JOHN L. McNAB and TIMOTHY HEALY,
Counsel for the Petitioner.

WALTER E. HETTMAN, Assistant United
States Attorney, for the Government.

These cases involve the right of the individuals named to land at the port of San Francisco, [288] having already been landed at Manila and coming thence here. Upon their arrival they were arrested and, after a hearing, ordered deported as persons likely to become public charges.

It is sought to have the action of the Department of Commerce and Labor denying their right to land and ordering their deportation reviewed by this court, on three general grounds:

1. Because they were not accorded a fair hearing by the Immigration officers, at this port.

2. Because there is no evidence to support the finding that each of said petitioners is a person likely to become a public charge.

3. Because having already been permitted to land at Manila, they are entitled, coming thence to the Mainland, to be landed here as a matter of right, and without further examination.

The assignment that the petitioners were not accorded a fair hearing by the Immigration officers

is predicated chiefly upon the fact that on or about August 20th, 1913, and after the testimony of the petitioners had been taken and certain affidavits filed in their behalf, the petitioners and their attorneys were informed by the Immigration authorities that the cases were closed, and that thereafter, on or about September 25th, 1913, they were informed that the cases had not been closed on August 20th, but that the Government had secured and presented other evidence in opposition to the right of petitioners to land. [289] The contention that the hearing was unfair in this regard cannot be upheld. On September 27th the attorney for petitioner addressed to the Immigration Commissioner a letter as follows:

“This is in response to your letter advising me that new evidence has been taken by the Government in the case of a group of Hindoos, and that we will now be permitted to inspect the same, and offer further evidence.

I thank you for the courtesy of the information.”

Having been accorded the opportunity to inspect the new evidence and controvert it if they desired, and having as a matter of fact presented further evidence, they were accorded a fair hearing within the meaning given those words by the adjudicated cases. When such is the case the order of the executive officers within the authority of the statute is final, if there be any evidence at all to support their determination.

It is contended that there is no such evidence in

the present cases, this being the second ground upon which the order of the Immigration officers is assailed. The question presented by this assignment is of extreme importance, and its determination either way will have a wide and far-reaching effect.

The Department rests its action upon the right given it by Statute to exclude "persons likely to become a public charge." Certain affidavits were introduced in the present cases tending to show, among other things, that the Hindoo laborers are obnoxious to very many of our people; that there exists a prejudice [290] against them, and that comparatively few avenues are open to them in which to find employment. This showing is not made as against any particular individual petitioner, but as against the Hindoos generally as a race. In these cases the application for the warrant of arrest was based upon the fact as set forth therein that the "above aliens are likely to become public charges for the reason that they are of the laboring class; that there is no demand for such labor, and there exists a strong prejudice against them in this locality." The warrant of arrest and the order of deportation are based upon the fact as set forth in each of them:

"That the said aliens are members of the excluded classes in that they were persons likely to become public charges at the time of their entry into the United States."

The finding that they were persons likely to become public charges is based in reality, however much the Immigration officers may disclaim the fact,

upon the general showing and implied finding that there is a prejudice against the Hindoo, and little demand for his labor. It is true that there was a strong counter-showing made by petitioners, but the matter having been passed on by the Department and there being some evidence to support the implied finding, the merits of the case in this regard are no longer open, and may not be reviewed by the Courts. The question then presented, stripped of all its masks, is the following:

“May the Department of Commerce and Labor upon a showing satisfactory to itself [291] and a finding not open to review that a prejudice exists in this country against aliens of any race and that there is no demand for the labor of such race, exclude all laborers of such race on the ground that they are, for such reasons, likely to become public charges?”

Stated thus, if it were a new question, I would not hesitate a moment to answer in the negative. But the Supreme Court has gone so far in holding that the findings of the Department cannot be reviewed if there be any testimony at all to support them, that I am not prepared to deny to it the power implied in the foregoing question. The Department has the power to pass upon the facts of each individual case. And if it determine upon any substantial evidence that there is no demand for the labor of an alien applying for admission, and that a prejudice exists against him and for these reasons conclude that, if admitted, he would be likely to become a public charge, the Court cannot say, when the alien must

depend upon securing labor in order to subsist, that this conclusion is so without support as to require it to be set aside. But let there be no delusion that this power, once conceded, can be used only in the case of Hindoos. It is equally applicable to every other race. Conceding the power to the Department of Labor to exclude the Hindoo laborer for this reason, we must concede to it the power to exclude, for the same reason, the laborer of any other race. It is a vast power, and one which, upon the argument of this case, I was very unwilling to believe was lodged in any executive Department of the Government. But an examination of the adjudicated cases shows a [292] uniform holding that whenever an alien has had an opportunity to present such testimony as he desired to present, the conclusions of the Department of Commerce and Labor, upon the facts, are not open to review if there be any testimony to support them. Nor can the Courts inquire whether or no such conclusions are wrong. In the present cases, therefore, the Department, having the right to determine the facts as to whether these petitioners are persons likely to become public charges, has determined that they are. The fact that this determination is based upon conditions existing in this country, rather than upon any particular physical or mental defect in the individual petitioners, does not in my judgment make such determination any the less final, or render it any more open to review by the Courts. For a strong man unable to obtain an opportunity to labor is just as helpless as a weak one unable to perform such labor if the opportunity

were afforded him. For these reasons the order of deportation cannot be disturbed because of failure of proof. There is left then to be considered only the third contention of petitioners, that having been permitted to land at the port of Manila, they are entitled to come to the Mainland without further question.

The Statute provides that the Commissioner General of Immigration shall have charge of the administration of all laws relating to the immigration of aliens into the United States, and shall establish such rules and regulations, not inconsistent with law, as he shall deem best calculated for carrying out the [293] provisions of the Immigration Act. At the time that some of these petitioners landed in the Philippines, Rule 14 of the Immigration Rules was as follows in so far as applicable here:

“Sec. 1. Aliens arriving in the Philippines bound for the Continent shall be inspected and given a certificate signed by the insular collector of customs at Manila showing the fact and date of landing.”

“Sec. 2. Aliens who, having been manifested *bona fide* to the Philippines and having resided there for a time, signify to the insular collector of customs at Manila an intention to go to the Continent shall be furnished such certificate, as evidence of their regular entry at an insular port.”

“Sec. 3. Aliens applying at continental ports and surrendering the certificate above described shall, upon identification, be admitted without further examination.”

On June 16th, 1913, however, the foregoing rule was amended to read as follows:

“Sec. 3. Aliens applying at continental ports and surrendering the certificate above described shall, upon identification, be permitted to land, provided it appears that at the time such aliens were admitted to the Philippines they were not members of the excluded classes, or likely to become public charges if they proceeded thence to the Mainland.”

Some of the petitioners here landed at Manila on June 20th, 1913, after the foregoing amendment was in force. But whether they landed at Manila before or after the amendment does not seem to me to be at all [294] material, as the amendment was in force for some time before any of them left the Philippines for the Mainland. It is urged that this amendment is beyond the power of the Department to enact, and that an alien once landed in any territory, or other place subject to the jurisdiction of the United States, may freely go thence to any portion of the United States whether it be the Mainland or any of its island possessions. With this conclusion I am unable to agree.

There may be reasons for rejecting an alien at continental ports which would not exist if he were applying to enter the Philippines. Labor and climatic conditions and standards of living are so diverse, that one going to the Philippines who would not there be likely to become a public charge, might well be likely to become such if he proceeded thence to the Mainland. A more rigid test may, therefore,

well be applied to those seeking admission to the Mainland than that applied to those seeking admission to the Philippines. And as the amendment to the Immigration Rules providing that the possession of a certificate of lawful entry into the Philippines should not be conclusive as to the holder's right to enter a continental port was in effect at the time that all of these petitioners sailed from Manila, the question was properly open for investigation by the Immigration officers here as to whether or no at the time these aliens were admitted to the Philippines, they were likely to become public charges if they proceeded thence to the Mainland. This question was investigated upon their arrival here, and was decided adversely to the [295] petitioners. As we have heretofore seen this decision is final and not subject to review.

The application for a writ of *habeas corpus* must, therefore, be denied, and it is so ordered.

December 5th, 1913.

M. T. DOOLING,
Judge.

[Endorsed]: Filed Dec. 5, 1913. W. B. Maling,
Clerk. By Francis Krull, Deputy Clerk. [296]

(Style of Court, Titles and Numbers of Causes.)

Petition and Notice of Appeal.

Now comes the petitioner above named, and the persons above named upon whose behalf said petition is filed, appellants herein, through their attorneys,

and feeling themselves aggrieved at the Order and Judgment of the above-entitled court made and entered on the fifth day of December, 1913, denying the Petition for Writ of Habeas Corpus, and hereby appeal from said Order and Judgment made as aforesaid, to the United States Circuit Court of Appeals for the Ninth Circuit because of certain errors made to their prejudice, all of which will appear more in detail from the assignment of errors which is filed herewith.

WHEREFORE, appellants pray that an appeal may be granted in their behalf to the United States Circuit Court of Appeals for the Ninth Circuit, for the correction of the errors so complained of, and further, that a transcript of the record, proceedings, and papers in the above-entitled cause, duly authenticated, may be sent and transmitted to the said United States Circuit Court of Appeals for the Ninth Circuit.

Dated, San Francisco, California, January 12th, 1914.

JOHN L. McNAB,
TIMOTHY HEALY,
Attorneys for Petitioner and Appellants. [297]

(Style of Court, Titles and Numbers of Causes.)

Assignment of Errors.

Now comes Timothy Healy and files the following assignment of errors upon which he will rely on his appeal this day taken from the order and judgment

made by this Court on the 5th day of December, 1913, denying the petitions of said Timothy Healy for a writ of *habeas corpus* in each of the above causes.

I.

That the said District Court erred in denying the petition filed on behalf of the said petitioner for a writ of *habeas corpus* in each of the above causes for and on behalf of the persons above named, who have been referred to in pleadings and argument as “TWENTY-TWO HINDOOS.”

II.

That the said District Court erred in not granting the said petitions for writs of *habeas corpus* prayed for on behalf of the said “TWENTY-TWO HINDOOS.”

III.

That said District Court erred in not taking jurisdiction of said petitions for a writ of *habeas corpus*, and in not granting said writ of *habeas corpus*, as prayed for in said petitions.

IV.

That said District Court erred in dismissing said petitions, for the writ of *habeas corpus*.

V.

That the persons referred to as “TWENTY-TWO HINDOOS,” for and on whose behalf the said petitions for the writ of *habeas corpus* were filed, are restrained of their liberty without due process of law in violation of the 14th Amendment of the Constitution. [298]

VI.

That the Commissioner of Immigration and the

Secretary of Labor are and each is without jurisdiction to imprison, detain or restrain of their liberty the said "TWENTY-TWO HINDOOS."

VII.

That the alleged order or warrant for the deportation of the said "TWENTY-TWO HINDOOS" from the United States to India was and is without authority of law, without and in excess of jurisdiction, and null and void, and each and both of such alleged orders or warrants of deportation are likewise and for the same reasons null and void.

VIII.

That said "TWENTY-TWO HINDOOS" were denied due process of law in this, that they were and are ordered deported without any fair hearing or any hearing, and were denied the equal protection of the law guaranteed by the Constitution and Laws of the United States by the treaty existing between the United States of America and Great Britain according to them the equal protection of law guaranteed to any subject of the most favored nation and also by the rules of regulation of the Department of Labor now and then enforced.

IX.

That said "TWENTY-TWO HINDOOS" were denied due process of law, the equal protection of the law, arrested, imprisoned and ordered deported from this country without being given the right to counsel to represent and defend them in every stage of the proceedings in violation of the fundamental right of personal liberty.

X.

That said "TWENTY-TWO HINDOOS" are ar-

rested and ordered deported without due process of law, in this, the judgment and [299] alleged order or warrant of deportation in each and all of the cases were and are entered and issued against them without a fair or any hearing, without receiving or reproducing any evidence to support the charge alleged against them and by denying their constitutional right to be confronted by witnesses aganist them.

XI.

That said "TWENTY-TWO HINDOOS" were not at the time of the judgment and issuance of the alleged orders or warrants of deportation alien or other immigrants and therefore not subject to any provisions of the acts of Congress in that regard enacted.

XII.

That said "TWENTY-TWO HINDOOS" are not subject to deportation in the manner nor for the reasons herein invoked, and that they are domiciled resident aliens within the United States and were such at the time of the entry of judgment and the issuance of the alleged orders or warrants of deportation.

XIII.

That said District Court erred in holding that the "TWENTY-TWO HINDOOS" were or are subject to deportation on a showing that is not made as against any particular one of them, but as against the Hindoos generally as a race.

XIV.

That said District Court erred in holding that the Department of Labor may on finding that a prejudice exists in this country against aliens of any race and

that there is no demand for the labor of such race, exclude all laborers of such race, on the ground that they are, for such reasons likely to become public charges and that the members of such race likewise may be deported for the same reasons. [300]

XV.

That the said District Court erred in holding that the *the* Immigration Act empowers the Secretary of Labor and the Commissioner General of Immigration to amend the Rules and Regulations for the enforcement of the Immigration Act in such manner as deny the right and privilege of an alien once landed in any territory, or other place subject to the jurisdiction of the United States, freely to go thence to any portion of the United States whether it be the Mainland or any of its island possessions.

XVI.

That the said District Court erred in holding that conditions existing in a particular part of the territory and jurisdiction of the United States, rather than the physical or mental condition of an individual, is to be held solely proper and sufficient ground upon which to base a judgment and order of deportation, of an alien admitted in another part of the territory and jurisdiction of the United States.

XVII.

That the said District Court erred in holding that as to aliens already domiciled in the United States and admitted at the port of Manila, Philippine Islands, an amendment of the Rules and Regulations might be subsequently made revoking the conclusiveness of a certificate of law entry at the Port of Manila

upon its presentation at a port of the Mainland of the United States, and thereby subjecting the alien resident to the inquiry which the Immigration Act provides shall be directed to the alien immigrant making original application for admission into the country.

XVIII.

That said District Court erred in holding that the said [301] "TWENTY-TWO HINDOOS" came within any of the classes of aliens who should be deported from the United States, in this, that there is no evidence to show that they should be deported or that they come within any of the classes of aliens resident in the United States for whom the statute provides deportation, and that there is no evidence that they are unlawfully in the country.

JOHN L. McNAB,
TIMOTHY HEALY,

Attorneys for Said Petitioners and Appellants.

[Endorsed]: Filed Jan. 12, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [302]

(Style of Court, Titles and Numbers of Causes.)

Order Allowing Appeal.

The petitioner above named, and the persons above named upon whose behalf said petition is filed, appellants herein have, through their attorneys, presented to this Court on January 12th, 1914, their Petition on Appeal to the United States Circuit Court of Appeals for the Ninth Circuit, upon the order and judgment made and entered by this Court on

the 5th day of December, 1913, denying their petition for a writ of *habeas corpus*, and having presented to the Court at the same time their assignment of errors, and having by their counsel moved the court for an order allowing said appeal;

IT IS HEREBY ORDERED that said appeal be and the same is hereby allowed; and, further, that a certified transcript of the record and proceedings and papers be prepared and transmitted by the clerk of this court to the United States Circuit Court of Appeal within the time prescribed by law;

AND IT IS FURTHER ORDERED that during the pendency of this appeal all proceedings against the above-named persons be stayed.

Done in open court this 12th day of January, 1914.

M. T. DOOLING,

District Judge.

[Endorsed]: Filed Jan. 12, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [303]

Citation on Appeal—Copy.

UNITED STATES OF AMERICA,—ss.

The President of the United States, to Samuel W. Backus, as Commissioner of Immigration at the Port of San Francisco, for the United States Government, and to John W. Preston, United States Attorney for the Northern District of California, Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the city of San

Francisco, in the State of California, within thirty days from the date hereof, pursuant to an order allowing an appeal, of record in the clerk's office of the United States District Court for the Northern District of California, First Division, wherein Timothy Healy is appellant and you are appellee, to show cause, if any there be, why the decree rendered against the said appellant, as in the said order allowing appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf. [304]

WITNESS, the Honorable MAURICE T. DOOLING, United States District Judge for the Northern District of California, this 4 day of June, A. D. 1914.

M. T. DOOLING,
United States District Judge.

United States of America,—ss.

On this fourth day of June, in the year of our Lord one thousand nine hundred and fourteen, personally appeared before me F. D. MONCKTON, Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, the subscriber, TIMOTHY HEALY and makes oath that he delivered a true copy of the within citation to JOHN W. PRESTON, as United States Attorney for the Northern District of California.

TIMOTHY HEALY.

Subscribed and sworn to before me at San Francisco, California, this 4th day of June, A. D. 1914.

[Seal] F. D. MONCKTON,
Clerk U. S. Circuit Court of Appeals for the Ninth
Circuit.

[Endorsed]: Filed Jun. 6, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [305]

(Style of Court, Title, and Number of Cause.)

Stipulation as to Printing of Transcript on Appeal.

It is hereby stipulated and agreed that the title of the cause and court, except as to the first paper filed in the proceeding, or any of the endorsements upon any of the papers to be printed, for the citation, petition and notice of appeal, order allowing appeal, bond to appear, praecipe for record need not be printed in the transcript of record on appeal.

San Francisco, Cal., January 12, 1914.

JNO. W. PRESTON,
United States Attorney.
JOHN L. McNAB,
TIMOTHY HEALY,
Attorneys for Appellants.

[Endorsed]: Filed Jan. 14, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [306]

(Style of Court, Title, and Number of Cause.)

Amended Stipulation Re Exhibits.

It is hereby stipulated and agreed that the copies of ORIGINAL EXHIBITS introduced in the above-entitled matter, which copies are attached to the petitions for the above-mentioned writs of *habeas corpus*, may be detached from the petitions by the clerk of the above-entitled court, and may be transmitted in the form in which they are at present, to the Clerk of

the United States Circuit Court of Appeals for the Ninth Circuit to be used and made a part of the record on appeal in the above-entitled matter.

Dated January 23d, 1914.

JOHN W. PRESTON,
United States Attorney.
JOHN L. McNAB,
TIMOTHY HEALY,
Attorneys for Appellants.

So ordered.

M. T. DOOLING,
Judge.

[Endorsed]: Filed Jan. 22, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [307]

**Certificate of Clerk U. S. District Court to Transcript
of Record on Appeal.**

I, W. B. Maling, Clerk of the District Court of the United States, for the Northern District of California, do hereby certify that the foregoing and hereto attached 307 pages, numbered from 1 to 307, inclusive, contain full, true, and correct copies (with the exception of the exhibits attached to each of the petitions and marked respectively "A," "B," "C," "D," "E," "F," "G" and "H," which are transmitted in their original form, as to each case) of certain papers, records and documents as the same now appear on file and of record in this office, in the matters of Rhagat Singh et al., No. 15,479, on *Habeas Corpus*, and Sandu Singh et al., No. 15,480 on *Habeas Corpus*, and which said Transcript is made up pursuant

to and in accordance with "Praecipe" (copy of which is embodied herein) and the instructions of Messrs. John L. McNab and Timothy Healy, attorneys for petitioners and appellants herein.

I further certify that the costs of preparing and certifying said Transcript of Appeal is the sum of Sixty-five Dollars and Eighty Cents (\$65.80), and that the same has been paid to me by the attorneys for the petitioners and appellants herein.

Annexed hereto is the Original Citation issued in the above-entitled matters, and paged 309 and 310.

ATTEST my hand and the seal of said District Court this 17th day of June, A. D. 1914.

[Seal]

W. B. MALING,

Clerk.

By Lyle S. Morris,

Deputy Clerk.

CMT: [308]

Citation on Appeal—Original.

UNITED STATES OF AMERICA,—ss.

The President of the United States, to Samuel W. Backus, as Commissioner of Immigration at the Port of San Francisco, for the United States Government, and to John W. Preston, United States Attorney for the Northern District of California, Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the city of San Francisco, in the State of California, within thirty

days from the date hereof, pursuant to an order allowing an appeal, of record in the clerk's office of the United States District Court for the Northern District of California, First Division, wherein Timothy Healy, as appellant, and you are appellee, to show cause, if any there be, why the decree rendered against the said appellant, as in the said order allowing appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable MAURICE T. DOOLING, United States District Judge for the Northern District of California, this 4 day of June, A. D. 1914.

M. T. DOOLING,

United States District Judge. [309]

United States of America,—ss.

On this fourth day of June, in the year of our Lord one thousand nine hundred and fourteen, personally appeared before me F. D. MONCKTON, Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, the subscriber, TIMOTHY HEALY, and makes oath that he delivered a true copy of the within citation to JOHN W. PRESTON, as United States Attorney for the Northern District of California.

TIMOTHY HEALY.

Subscribed and sworn to before me at San Francisco, California, this 4th day of June, A. D. 1914.

[Seal] F. D. MONCKTON,
Clerk U. S. Circuit Court of Appeals for the Ninth
Circuit.

[Endorsed]: No. 15,479. U. S. Circuit Court of Appeals for the Ninth Circuit. Timothy Healy, Appellant, vs. Samuel W. Backus, as Commissioner of Immigration. Citation on Appeal. Filed Jun. 6, 1914. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [310]

[Endorsed]: No. 2436. United States Circuit Court of Appeals for the Ninth Circuit. Timothy Healy, Appellant, vs. Samuel W. Backus, as Commissioner of Immigration at the Port of San Francisco, for the United States Government, Appellee. Transcript of Record. Upon Appeal from the United States District Court for the Northern District of California, First Division.

Received and filed June 18, 1914.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Meredith Sawyer,
Deputy Clerk.